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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. WESTMORELAND).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 17, 2005.

I hereby appoint the Honorable LYNN A. WESTMORELAND to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Ohio (Mr. BROWN) for 5 minutes.

CENTRAL AMERICA FREE TRADE AGREEMENT

Mr. BROWN of Ohio. Mr. Speaker, 1 year ago, in late May, 2004 President Bush signed the Central American Free Trade Agreement, a trade agreement that extends the North American Free Trade Agreement, NAFTA, to 5 Central American countries and the Caribbean country of the Dominican Republic. That trade agreement, coupled with the President's next trade agreement, the Free Trade Area of the Americas, will double the population of the North American Free Trade Agreement, double the size of NAFTA, and quadruple the number of low income workers, poverty wage workers that now live in NAFTA countries.

Normally, when a trade agreement is signed by President Bush, that trade agreement comes in front of Congress almost immediately. Since President Bush has taken office there have been 4, Morocco, Australia, Chile and Singapore. Each of those agreements has been voted on within about 2 months of the President's signature.

However, the Central American Free Trade Agreement, some call it the Central American Free Labor Agreement, because it really is all about low income workers, not about selling American products to Central America. The Central American Free Trade Agreement has not been sent to Congress; has not been voted on, even though President Bush signed it 11 and a half months ago, even longer ago than that actually, 11 months and 20 some days. And the reason is simple that it has not come in front of the Congress, because of the immense opposition to the Central American Free Trade Agreement.

As my colleagues will notice, our trade policy in this country simply is not working. If you look at what has happened to our trade deficit, that is the amount of exports that we sell to other countries versus the amount of imports we buy from other nations, you can see we had a negative flow in 1992, the year that I happened to run for Congress, of $38 billion. That was the year before NAFTA.

NAFTA was passed in 1993. Then Congress passed a trade agreement with Chile, several other trade agreements. And you can see what has happened with this wrong-headed trade policy. This trade deficit, our trade deficit with the rest of the world was $38 billion in 1992. Last year, 2004, our trade deficit was $620 billion, $618 billion, precisely, from $38 billion to $618 billion.

By any stretch of the imagination, it is hard to argue that our trade policy is working. And that is why the opposition has been bipartisan to CAFTA, to the Central American Free Labor, the Central American Free Trade Agreement. That is why the opposition has been bipartisan. That is why the opposition has been overwhelming.

Last month 2 dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations, sending the message, vote no on this Central American Free Trade Agreement. Last week more than 400 union workers and Members of Congress gathered in front of the U.S. Capitol again delivering that message, vote no on the Central American Free Trade Agreement.

Now, those of us opposed to CAFTA, which clearly is a majority in this Congress, or we already would have voted on it. Those of us opposed to CAFTA say we are not opposed to trade. We want to see fair trade agreements instead of free trade agreements, because we know what free trade agreements do. We know what this trade deficit does to our country. It means, according to the first President Bush, according to his economists, it means literally 12,000 lost jobs per $1 billion of trade deficit. That means a million lost jobs. It means more than that. A million lost manufacturing jobs in this country.

In my State alone we have lost 200,000 manufacturing jobs, not entirely because of trade agreements, but that is a big component of it. So we know what these trade agreements do to individuals when they lose their jobs, what it does to family members when they lose their jobs, what it does to communities when a community has a plant closing, what it does to the school districts and the schools as they

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lose funding because these workers have lost their jobs and because this plant has closed, what it does to our country as a whole when we have this kind of trade deficit. We understand that. That is why those of us opposed to the Central American Free Trade Agreement want to throw out this dysfunctional cousin of NAFTA and want to negotiate a trade agreement that will lift workers up in Central America, while promoting prosperity here at home.

There is no reason that our trade agreements need to look like this, need to have a result like this. Instead, Congress can move forward in passing a fair trade agreement.

Mr. Speaker, the gentleman from Texas (Mr. DELAY), the Majority Leader, the most powerful Republican in the U.S. Congress, and the Chairman of the Ways and Means Committee, the gentleman from California (Mr. THOMAS) both promised to vote on the Central American Free Trade Agreement by the end of May.

Now, if you will look at this chart you will see that the end of May happens to be the 1-year anniversary of when CAFTA was sent to Congress. So, Mr. Speaker, we should vote no on the Central American Free Trade Agreement; bury this trade agreement, and pass a trade agreement that is good for American workers and American communities.

SOCIAL SECURITY REFORM

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

Mr. PENCE. Mr. Speaker, last year President Bush put Social Security reform on the national agenda. His proposal to save Social Security by giving younger Americans the choice to choose personal savings accounts has been met, to date, by ridicule and silence by the loyal opposition in this Congress. The ridicule has taken a variety of forms, denouncing the President's motives and intentions. The intentions of Republicans have been described by some outside organizations as an effort to tear down the house of public retirement in America.

Beyond that slur, there has just been, to date, simply silence. No ideas, no counterproposals, nothing to deal with what many refer to as a generational tsunami heading for Social Security, as some 40 million Americans over the age of 65 within 20 years will become 80 million Americans over the age of 65.

I say silence with hesitation, Mr. Speaker, because that actually ended yesterday among the loyal opposition when the gentleman from Florida (Mr. WEXLER) introduced his legislation at a press event in his home State, where he unveiled a bill which he described as Social Security forever, saying, admirably, ''I believe it is time for Democrats to offer an alternative to the President.''

And to the gentleman from Florida, I say with admiration, I could not agree more. I admire him for his leadership on behalf of his vision of government and also his honesty as he proposes to cure what ails Social Security in the next 50 to 75 years with that anecdote that Democrats run to most often, and that is, namely, higher taxes. The Wexler bill, with a 6 percent tax increase on income over $90,000 a year would be the largest marginal tax rate increase in a generation.

Let us be clear about this, Mr. Speaker. House conservatives will vigorously oppose any effort to finance Social Security reform by raising taxes on working families, small businesses, and family farms. Thanks to the Wexler proposal, the American people now see a very clear choice before them, the President and the Republican Congress's vision for reform and the single Democrat vision that has been articulated, higher taxes. With one of the largest marginal tax increases in a generation, the gentleman from Florida (Mr. WEXLER's) Social Security forever bill looks more like higher taxes forever.

It is time for this Congress to move on to the substance of Social Security reform. Let us offer our conflicting visions in this chamber across the aisle and move forward to save and secure and reform Social Security for our children and our grandchildren.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 10 minutes a.m.), the House stood in recess until 10 a.m.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. MILLER of Michigan) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, Your word is founded in truth and Your just decrees are everlasting.

So our fleeting days and our passing tasks are truly significant only if they are grounded in You.

Eternal God, You are the wellspring of creativity for Your people. You are forever liberating us from blinding evil; so be with Congress today.

Ennoble every compromise rooted in compassion; and strengthen every commitment measured by righteous decisions in this body.

Just as there cannot be true worship in Your sight without sacrifice and conversion of heart; nor can there be true politics without principle. Free us, Lord, to amend our ways so that we will search for what is truly right and just; lest we become lost in endless possibilities born only from self-centered imagination.

Lord God, in the land of the free we hold ourselves accountable to You both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Ms. SOLIS) come forward and lead the House in the Pledge of Allegiance.

Ms. SOLIS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SPEND IT WISELY

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Madam Speaker, this week the House will uphold, for the 216th time, its constitutionally mandated responsibility to begin the process of funding the Federal Government.

The Founding Fathers understood the power of the purse and that that power of the purse was government's most potent, and therefore installed that power first and foremost in the body most accountable to the American people, the House of Representatives.

In the 10 years Republicans have controlled the House appropriations process, we have fundamentally changed the way we spend the people's money.

We have based this process on an entirely new question: no longer ''How much can we spend?'' but ''How much should we spend?'' That may seem like a very small matter, but it has saved our government and our economy billions of dollars and millions of jobs over the last decade.

The fiscal accountability our Republican majority instituted helped balance the budget in the late 1990s, helped ensure the recession of 2001 was the shallowest in memory, and helped ensure our recovery from that recession and the 9/11 attacks was strong and durable.

This week we will begin our second decade protecting the American people's money, and our first year with our streamlined Committee on Appropriations, by taking up the first two spending bills for the 2006 fiscal year.

First, the homeland security spending bill will provide the resources our

homeland security agencies need to do their work. And since September 11, 2001, Congress has worked tirelessly with the administration to identify and address our national vulnerabilities, culminating with the creation of the new Department of Homeland Security.

The fiscal year 2006 security appropriation will meet the needs of our first responders, make it harder for terrorists and criminals to pierce our borders, better prepare our Nation for emergencies, and help us stay one step ahead of our enemies.

Second, we will provide for the 2006 budgets for the Department of the Interior and environment-related agencies.

It makes sense these two bills will be the first we take up. After all, our homeland security agencies protect our people and our infrastructure while our interior agencies protect everything in between.

For these and the rest of the fiscal year 2006 spending bills, Madam Speaker, the House will lead the way not only chronologically but responsibly. We will continue to build on the record we have established these last 10 years, making sure every dollar is put to its best use and making sure we only spend those dollars we must.

For another appropriation season is upon us and we will spend it wisely.

CALLING FOR U.S. WITHDRAWAL FROM IRAQ

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Madam Speaker, I would like to read to the Members from excerpts from an op-ed that the gentleman from Hawaii (Mr. ABERCROMBIE) and I published in ''USA Today.''

''The military occupation of Iraq will not turn Iraq into a democratic nation. Longstanding rivalries will do more to shape that country's future. Those forces will not be controlled by American boots on the ground no matter how many we put there or how long they remain.

''In Iraq there are no front lines, no easy way to tell friend from foe, no clear way to measure success. Iraq is a quagmire. It has become a recruiting post for Osama bin Laden. Are we to keep fighting indefinitely, losing more troops every week, spending billions of dollars, and increasing the strain on our Armed Forces, especially the Reserve and the National Guard?

''Iraq has already added $200 billion to our national debt and costs U.S. taxpayers more than $1 billion per month. It jeopardizes the strategic interests of the United States. It alienates allies in the Muslim world, and it is hindering efforts to create a united global front against al Qaeda.

''Unlike World War II, where the enemy surrendered and the troops came home, there is no such prospect in Iraq. We must define an endpoint. We will soon introduce legislation to achieve that goal by bringing the occupation of Iraq to a close. The troops have done their jobs. It is up to Congress and the President to forge a policy worthy of their sacrifices.''

HONORING GENERAL ANDREW JACKSON GOODPASTER

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, I attended West Point from 1976 to 1980. The Academy was going through much change dealing with a cheating scandal and the integration of the first women at West Point.

To effect change, the Army turned to a world renowned retired four star general, Andrew Jackson Goodpaster, a West Point graduate.

General Goodpaster, from Granite City, Illinois, led Army troops in World War II, Vietnam, and oversaw NATO and U.S. troops in Europe in the 1970s. General Goodpaster served at various times as an aid to Presidents Eisenhower, Kennedy, Johnson, and Nixon.

General Goodpaster died yesterday at the age of 90 here in D.C. at Walter Reed Army Medical Center. He is survived by his wife, Dorothy; two daughters, Susan and Anne; and seven grandchildren.

As their alma mater states: ''And when our work is done, our course on earth is done, may it be said well done, be thou at peace.''

Well done, Supe. Be thou at peace.

SAVINGS INCENTIVES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, as we continue debating the future of Social Security, it is important to remember for more Americans they cannot save enough for their retirement.

In fact, over half of all Americans do not participate in employer-sponsored retirement plans, and for 28 million households in America they have no other retirement security outside of Social Security.

For America's families retirements are less, not more secure. United Airline employees last week learned that painful lesson.

For that reason it is crucial that we strengthen, not weaken, Social Security, as well as enable more Americans to save for their retirement.

Specifically, step one, we should encourage companies to automatically enroll their employees in their 401(k) plans. At R.R. Donnelley, a Chicago company, auto enrollment dramatically increased 401(k) participation when they did automatic participation, up to 92 percent.

Second, we should make the Saver's Credit fully refundable and permanent. A recent H&R Block study shows, when offered a matching contribution, Americans save more.

Third, we should allow taxpayers to directly deposit their tax refund into a savings account.

And, fourth, finally, we should create universal 401(k)s for all Americans to consolidate the different savings plans that exist.

MEDIA NEEDS TO SHOW RESPONSIBILITY IN REPORTING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, ''Newsweek'' last night finally retracted a story that had deadly consequences. The incident underscores how high the stakes are for the news media. There is a prestige for organizations to get the story first. But that prestige often trumps factual reporting of issues. And the ''gotcha'' factor is often the motivation for running stories that are not as well researched as they could or should be. It is the ''gotcha'' bias that leads to shoddy reporting. This may be fine when they are covering the Michael Jackson case.

The problem with the War on Terror reporting is that terrorists are watching. When stories are reported here that fit their PR plan, terrorists use them to incite violence and hatred around the world. In the very next news cycle, their response can be heard. That means that mistakes are very costly and the damage done is outrageous.

In this case ''Newsweek's'' mistake cost the lives of 17 people in riots in Afghanistan and set back the cause of democracy there. This is inexcusable and irresponsible. And while it is good that Newsweek issued a correction, they should lead the way in setting a higher standard of reporting in the first place, particularly when we are talking life and death, war and peace.

ABUSE OF POWER

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Madam Speaker, today I rise to denounce the Republican attack on our system of checks and balances that has existed in our country for well over 200 years.

Led by the Senate majority leader, the Senate Republicans are creating an unnecessary showdown over judicial nominations that will hurt the American public and especially women.

The truth is that since President Bush took office, the Senate has confirmed 208 of his judicial nominations and turned back only 10, which is a 95 percent confirmation rate.

There are reasons the Democrats are concerned about the judicial nominations. As Chair of the Democratic Women's Working Group, I am concerned about the nominations of Janice Rogers Brown and Priscilla Owen to the circuit court seats. Both these

nominees would come to the Federal bench with an agenda to roll back civil rights and labor protections, many of which would affect women and all Americans.

We have held these values dear for many decades, and I cannot stand quiet and allow the Senate Republicans to abuse their power. Eliminating the filibuster would destroy the procedures that would protect democracy in this institution.

The American public must stand up and be heard.

HONORING HOSANNA CHURCH JUNIOR HIGH YOUTH GROUP FOR THEIR EFFORTS ON BEHALF OF IRAQI SCHOOL CHILDREN

(Mr. KLINE asked and was given permission to address the House for 1 minute.)

Mr. KLINE. Madam Speaker, I rise today to recognize the efforts of some outstanding young Minnesotans.

What began as a routine service project for the Hosanna Church Junior High Youth Group has grown into a community-wide effort. The students, led by George Macaulay, set out to collect school supplies for Iraqi children. Once they had filled one box, however, they became inspired to do more. The students reached out to other groups within their church, then to other community groups. As of last week, the students had collected 20 boxes of school supplies and were still going strong.

I recall clearly the smiling faces of the Iraqi schoolchildren in my first congressional visit to Iraq 2 years ago. They were eager to learn, and their teachers and parents expressed gratitude for our assistance.

The Hosanna Youth Group is making a meaningful contribution to these children and demonstrating the commitment of U.S. citizens to the spread of knowledge and freedom.

I thank Mr. Macaulay, Alex, Jay, Patrick, Jack, Justin, Alexander, and Carter for all they have done. Their efforts are an inspiration to us all.

DEPLETED URANIUM MUNITIONS STUDY ACT OF 2005

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, today on behalf of 21 original Democratic co-sponsors, I am introducing the Depleted Uranium Munitions Study. The stakes could not be higher for U.S. soldiers and Iraqi civilians, and there is not a moment to lose, and I hope the Republican leadership will put it on the Suspension Calendar.

DU, as it is called, is a byproduct of the uranium enrichment process. It is toxic and has low-level radioactivity, and it is widely used by the United States military in Iraq.

There are countless stories of mysterious illnesses, higher rates of serious illnesses and even birth defects. We do not know what role, if any, DU plays in the medical tragedies in Iraq, but we must find out.

The Pentagon says there is no evidence that DU is harmful; yet the Pentagon also says soldiers should wear protective gear, including special clothing and a respirator, using DU. An Iraqi child has no protective gear. The Iraqi people have no respirators. If DU is so safe, why do American soldiers need to wear protective clothing in the first place?

We do not know if DU is safe or harmful; yet we have used 150 tons in the war so far.

Let the Pentagon prove that it is safe.

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TOO LITTLE TOO LATE FOR NEWSWEEK RETRACTION

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Madam Speaker, I rise today to express my displeasure that Newsweek magazine published an inaccurate and irresponsible story that led to a deadly protest in Afghanistan.

The May 9 edition of Newsweek reported that U.S. interrogators at Guantanamo Bay used unreasonable and unacceptable methods to make Muslim detainees talk. These methods purportedly included the desecration of the Koran. Now Newsweek is apologizing for running the story, saying their ''official government source'' is unsure of the information he supplied to the magazine.

Madam Speaker, it is too little, too late for an apology and retraction.

While Newsweek has done the right thing by retracting their story, it cannot retract the irrefutable damage that has been done. Sixteen people died for no reason at all. Our brave men and women in uniform are now at greater risk. Furthermore, our country's image has been tarnished in the eyes of the Muslim community across the globe.

Media outlets must be sure to check their facts and get their story straight. We want and need a free press, but we must have a responsible press.

On balance, our media usually does an outstanding job of keeping the American people informed. I hope others will learn from this tragic mistake.

LAS VEGAS CENTENNIAL

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Madam Speaker, the city of Las Vegas is celebrating its centennial this year. This past weekend marked the anniversary of the land auction that founded Las Vegas, and the city highlighted this momentous day with special events such as the return of the Helldorado Days Parade, baking and serving the world's largest birthday cake, and a reenactment of the land auction of 1905.

Las Vegas has grown from the western railroad stop of May 15, 1905 to the entertainment capital of the world that welcomed a record-setting 40 million tourists last year.

I remember as a girl with my family driving out west in search of the American Dream and finding it in Las Vegas, Nevada. Over the years, I have watched Las Vegas become the quintessential American city. Economic opportunity and the optimistic attitude of our citizens welcome thousands of new residents and millions of tourists every month.

I am proud to be a part of the Las Vegas community; and I wish my city, Las Vegas, a happy 100th anniversary. The best is yet to come.

IN SUPPORT OF JUSTICE PRISCILLA OWEN

(Mr. MARCHANT asked and was given permission to address the House for 1 minute.)

Mr. MARCHANT. Madam Speaker, I rise today in support of Justice Priscilla Owen, Presidential nominee to the U.S. Court of Appeals for the Fifth Circuit.

Since her nomination in May of 2001, the Democrats have continuously threatened to use the filibuster to block a vote on her nomination, and she is unable to be confirmed. All judicial nominees deserve a fair up-or-down vote on the Senate floor. This judicial obstruction is unprecedented.

I personally know Justice Priscilla Owen. Her record on the Supreme Court of Texas is outstanding and she deserves the opportunity to serve on the U.S. Court of Appeals. Justice Owen has had broad bipartisan support, including the support of three former Democratic judges on the Supreme Court and a bipartisan group of 15 past Presidents of the State Bar of Texas.

If the Senate employs the constitutional option, it will not be changing the rules; it will simply be restoring the precedent and a 200-year tradition. Justice Owen deserves a fair up-or-down vote, as do all of President Bush's judicial nominees.

CHILD SUPPORT REINVESTMENT ACT OF 2005

(Ms. MATSUI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MATSUI. Madam Speaker, today I rise to introduce the Child Support Reinvestment Act of 2005. This much-needed bill will provide States, including my home State of California, with important penalty relief, allowing more money to flow where it should: to the children of our State awaiting their past-due child support payments.

California is in the process of developing the largest single statewide automated child support collection system

in the country. Although the project initially met with delays, California is now on track to compliance by September 2006.

However, rather than reducing the penalties as California makes progress towards its goal, the Federal penalties actually continue to grow, because the penalties are based on the amount the State invests in child support programs for the previous year. Effectively, we are hurting the very children that the program is trying to help by punishing States for doing their best to get each child the support payments they are owed.

My bill, the Child Support Reinvestment Act, will lower the penalties and allow the money levied in penalty to be used for the benefit of the children instead of the Federal Government's general fund. This is smart regulation for the States.

BORDER PATROL AND ILLEGAL ALIENS

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Madam Speaker, multiple news reports claim that the U.S. Border Patrol has been ordered to stop arresting illegal aliens in Arizona where American citizens have been patrolling. And why have the agents been asked to stop these arrests? Because an increase in the arrest rate was proving the effectiveness of the Minuteman volunteers.

I hope our government has not told agents to stop making arrests. I hope that the efforts of concerned citizens were not in vain.

Our government has spent close to $240 million to monitor the Mexican and Canadian borders with the latest technology. The problem? The equipment does not work. What is clear is that the Minutemen are working. Border agents credited the Minutemen with cutting the flow of illegal aliens with the number caught dropping from 500 a day to less than 15 per day. Madam Speaker, new solutions are needed; we cannot just throw money at our problems. It is clear that a group of concerned citizens are doing what $240 million could not do, but we need a permanent fix.

Madam Speaker, illegal immigration is not simply going to go away. We know there is a problem, and we must take the initiative and address this problem now.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATION FALLS SHORT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Madam Speaker, this Homeland Security appropriation falls short in many areas: port security, first responders, interoperable communications, and aviation.

In aviation, recent tests by the Inspector General and the GAO show that there are unacceptable, continuing vulnerabilities to our system of aviation, and their conclusion is simple: the performance of finding explosives and other threat objects will not improve until we give the screeners 21st-century technology to fight 21st-century threats. The junk they are working with was thrown out a decade ago because it was inadequate for the United States Capitol before 9/11, but we are still using it in our airports and demanding they find threat objects that the machines simply cannot find. The Subcommittee on Homeland Security of the Committee on Appropriations is failing the test too. They are failing to protect the American traveling public.

JUDICIAL NOMINATION OF PRISCILLA OWEN

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Madam Speaker, 2 years ago this month, I rose to express my outrage with Democrats over their treatment of my fellow Texan, Supreme Court Justice Priscilla Owen. Today, due to Democrats' continued obstruction, Justice Owen, a highly qualified nominee from the Fifth Circuit Court of Appeals, is still being denied a simple up-or-down vote in the Senate.

Madam Speaker, despite unanimously receiving the highest possible rating of the American Bar Association, despite the strong, bipartisan support of several former Texas Supreme Court Justices and 15 past presidents of the State Bar of Texas, Texas Supreme Court Justice Priscilla Owen has still not received a simple up-or-down vote for 4 years. For 4 years, Senate Democrats have worked to obstruct our Constitution.

When Republicans were in power during President Clinton's term, no judicial nominee was ever deprived of a vote due to a filibuster. Now, after 200 years of American history, Democrats want to unilaterally change the rules.

Madam Speaker, Justice Owen has a right to get a vote on her nomination. Basic fairness dictates it, as does our Constitution.

HONORING THE CONTRIBUTIONS OF VIETNAMESE AMERICANS

(Mr. REICHERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REICHERT. Madam Speaker, I rise today to recognize an extraordinary group of people, our Vietnamese Americans.

This month, the gentleman from Virginia (Chairman TOM DAVIS) introduced, and the House passed, an important resolution honoring the contributions of the Vietnamese Americans over the past 3 decades, enriching our society with diversity, culture, and strength. Madam Speaker, I would like to thank the chairman for his work on this important issue.

Madam Speaker, 27,000 Vietnamese Americans live in my district of Washington State. One of the most remarkable experiences I have had as sheriff of King County in Washington, which I am now lucky enough to continue to represent as Congressman, is attending an annual event where South Vietnamese Police officers are recognized.

When the United States pulled out of Saigon, many were left behind. Some were executed, some sentenced to prison camps, some starved and beaten to death, all for being friends of the United States. And each year, these Vietnamese, who spent 15 to 20 years in prison camps, stand and salute our flag with tears in their eyes because they know what freedom is. They remind us of how great our country is, and I am privileged and proud to represent them.

JUSTICE OWEN: WELL QUALIFIED

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, yesterday, The Wall Street Journal highlighted the extreme and politically charged use of the Senate Democratic filibuster.

Editors at The Wall Street Journal clearly articulated the audacity of the Democrats' radical claims against nominee Priscilla Owen of Texas. Justice Owen is a well-respected and accomplished nominee who enjoys significant bipartisan support and would be quickly confirmed if given an up-or-down vote. Unfortunately, Democrats are denying her this opportunity in a desperate attempt to hold on to Federal power and legislation through the judicial system. Their agenda is fueled by bitterness and is not in the best interests of the American people.

Majority Leader BILL FRIST is to be commended for maintaining the constitutional case for an up-or-down vote. Democrat obstructionism is a radical deviation from allowing Senators to vote for the nominees who are highly qualified to serve our country. I support Senator FRIST's efforts and urge Senate Democrats to give Justice Owen a fair vote.

In conclusion, God bless our troops and we will never forget September 11.

UP-OR-DOWN VOTE FOR JUSTICE PRISCILLA OWEN

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, I too rise this morning, along with my fellow Texans, to recommend to the other body that they have an up-or-

down vote on Justice Priscilla Owen. Justice Owen has been elected by the people of Texas to the State Supreme Court two times, the second time in the year 2000 with an overwhelming popular majority. During her last election, Justice Owen was endorsed by every major newspaper in the State of Texas.

Mr. C. Boyden Gray, writing an article about this, said: ''The members of the Texas legal community know Justice Owen to be a jurist of the highest integrity, one who is committed to following the law, no matter where it leads.''

The Dallas Morning News editorialized after she was nominated 4 years ago that ''Justice Owen's lifelong record is one of accomplishment and integrity. She is one of the few judicial nominees to receive the unanimous 'well-qualified' rating from the American Bar Association.''

The chairman of the Texas Commission on Judicial Efficiency, Baylor University President Herbert Reynolds, said, ''Based on my knowledge of Justice Owen for the past 30 years, I believe you simply cannot make a more solid choice for the 5th U.S. Circuit Court of Appeals.''

I urge the other body to have an up-or-down vote.

RECOGNIZING THE 216TH ENGINEER BATTALION OF THE OHIO NATIONAL GUARD

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Madam Speaker, I rise today to recognize the 216th Engineer Battalion of the Ohio National Guard stationed in Chillicothe, Ohio, for their exceptional service during the war on terror.

The 216th completed more than 350 successful missions. They played a critical role in the construction of protective barriers to protect soldiers from enemy fire. And in preparation for Iraq's national election on January 30, the 216th placed concrete barriers at hundreds of voting sites to allow Iraqis to vote in a safe and secure environment. However, their service was not without tragedy. Twenty soldiers of the 216th were awarded Purple Hearts for wounds they received in combat, and three soldiers made the ultimate sacrifice.

In recognition of their exceptionally meritorious conduct, the 216th will be awarded the Meritorious Unit Commendation during their Freedom Salute Campaign celebration next month.

It is with great honor that I have the privilege of recognizing them today. The willingness to risk one's life in defense of the ideals our country was built upon and is the truest test of one's strength and character.

These men and women have excelled as patriots, and we are forever in their debt.

PROVIDING FOR CONSIDERATION OF H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. SESSIONS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 278 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 278

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with the colon on page 6, line 8, through ''Office'' on page 7, line 7; beginning with ''of'' on page 7, line 17, through the semicolon on line 23; beginning with the colon on page 8, line 19, through ''108–541'' on page 9, line 15; beginning with the colon on page 9, line 23, through ''checkpoint'' on page 10, line 3; beginning with the colon on page 10, line 9, through ''Office'' on page 11, line 6; beginning with the colon on page 11, line 24, through ''Representatives'' on page 12, line 7; beginning with the colon on page 17, line 2, through ''intent'' on line 11; page 17, lines 21 through 24; beginning with the colon on page 18, line 5, through ''Act'' on line 18; beginning with the colon on page 21, line 2, through ''assets'' on page 22, line 12; beginning with the comma on page 26, line 22, through ''law'' on line 23; beginning with the colon on page 27, line 2, through ''funds'' on page 27, line 13: page 27, line 19, through page 28, line 5; beginning with the colon on page 28, line 15, through ''funds'' on page 29, line 2; beginning with the colon on page 29, line 6, through ''2005'' on page 30, line 8; beginning with the comma on page 36, line 19, through ''funds'' on line 22; and sections 507, 512, 515, 517, 518, 522, 523, 524, 525, 527, 529, 530, 532, and 534. Where points of order are waived against part of a paragraph or section, points of order against a provision in another part of such paragraph or section may be made only against such provision and not against the entire paragraph or section. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. When the committee rises and reports the bill back to the House with a recommendation that the bill do pass, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1030

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, the rule before us today is a fair and completely open rule that provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member on the Committee on Appropriations.

It waives all points of order against consideration of the bill, and provides that under the rules of the House the bill shall be read for amendment by paragraph. It waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill except as specified in the resolution.

Finally, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD and provides for one motion to recommit with or without instructions.

Madam Speaker, I rise today in strong support of this rule and the underlying legislation. This bill, sponsored by my friend, the gentleman from Kentucky (Mr. ROGERS), the chairman of the Appropriations Subcommittee on Homeland Security, funds an array of Federal programs aimed at securing the Nation against terrorist attacks, including Customs and border protection, transportation security, and Federal assistance to State and local first responders.

In addition, it funds some additional and vitally important missions of agencies that were included in the Democratic of Homeland Security when it was formed 2 years ago, such as disaster relief. This carefully considered legislation provides almost $31 billion for operations and activities of the Department of Homeland Security, an increase of $1.37 billion above fiscal year 2005 enacted levels, excluding $2.5 billion in advance appropriations for BioShield and $1.3 billion above the President's request.

It also provides $1 billion in mandatory budget authority for programs in the Department. Some of the other initiatives that the gentleman from Kentucky (Mr. ROGERS), the chairman, and his subcommittee have funded through this bill on behalf of the American public include: $7.5 billion to the Coast Guard, who are called today to defend our coast from the threat of terrorism;

$6.9 billion for the Bureau of Customs and Border Protection, including $4.9 billion for enforcement activities and assets; $458 million for computer automated import and export tracking

functions; $348 million for maintenance of air and marine vessels; and $93 million for facilities construction and maintenance;

$5.7 billion for the Transportation Security Administration, including $2.5 billion for aviation, passenger and baggage screening; $983 million for aviation security direction and enforcement; and $36 million for surface transportation security;

$4.5 billion for the Bureau of Immigration and Customs Enforcement, including $3.1 billion for immigration enforcement, detention and removal; and $699 million for Federal air marshals;

$3.6 billion overall for terrorism preparedness grants, including $750 million for formula-based grants to States; $1.2 billion in discretionary grants for high-threat urban ports, port security and public transportation security; $600 million for fire prevention and control grants; $200 million for training exercises and technical assistance grants; and $180 million for emergency management performance grants;

$3 billion for emergency preparedness and response, including $2 billion for disaster relief; $861 million for information analysis and infrastructure protection; and $422 million for the Office of the Under Secretary for Border and Transportation Security, including $390 million for the United States Visitor and Immigrant Status Indicator Technology known as US–VISIT program; $14 million for the NEXUS/SENTRI program; and $7 million for the free and secure trade programs.

In addition to providing these much needed funds throughout this legislation, the gentleman from Kentucky (Chairman ROGERS) and his committee have also focused sharply on the need for strong oversight and Congressional review of how the taxpayers' money is being spent wisely and efficiently on homeland security.

This much needed emphasis on oversight of the efficiency and effectiveness on how money is spent on defending our homeland will ensure that the money is spent wisely. It will also limit waste and abuse so that the programs that are truly needed to protect the safety of American citizens will have the funds when they are needed and the ability to operate those plans.

Madam Speaker, I strongly support this legislation and this open rule. I commend my colleagues on the Appropriations Committee for their hard work in developing this legislative product.

Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Madam Speaker, I want to thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

Madam Speaker, the Homeland Security Appropriations bill is one of the most important bills this or any Congress will consider. The protections provided in this bill are designed to make our country safer and to prevent future terrorist acts from taking place inside the United States.

The Homeland Security Appropriations Subcommittee has a difficult job. The gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), have done the best they could with the limited resources provided to them. While I do not agree with every choice they made, they certainly have my appreciation and gratitude for the job that they have done.

Nonetheless, Madam Speaker, I am very concerned with the inadequate funding levels provided to the Appropriations Committee and with the continuing lack of accountability on the part of the Bush administration.

Now, let us not kid ourselves today. Congress must provide more funding to protect our Nation from terrorist attacks. We should not be forced to choose among funding port security, air security, border security and first responders. These distinct areas of security are all necessary parts of an integrated whole, and none of them should be short-changed. But the reality is that the reckless fiscal policies enacted by the Bush administration and the Republican leadership in Congress are short-changing these and other important programs.

The tax cuts enacted over the last 5 years, coupled with the hundreds of billions of dollars spent on the war in Iraq, have drained the Federal Treasury to the point where even the fire grants that help our local fire departments prepare for the challenges they face every day will be severely cut in this bill.

Madam Speaker, that is the wrong choice. Many of my Republican friends will claim that the Homeland Security Appropriations Subcommittee did the best they could with the allocation provided to them. That argument does not tell the whole truth. Many of my colleagues on the other side of the aisle will try to have it both ways. They want to criticize the low funding level in this bill, but they do not want to criticize the fiscal policies that have put us in the hole we are in today.

I know that my colleagues on the Homeland Security Appropriations Subcommittee will describe this bill in more detail, but I want to highlight a few key programs.

Again, I am disappointed that this bill short-changes the fire grant program. It is one of the most successful programs in the country and it deserves to be increased and not cut.

I am also disappointed that this bill fails to live up to the promises made in the Intelligence Reform Act, enacted just in December. This bill short-changes border security, a key component of the 9/11 Commission report that was released last year.

The silver lining, thin as it is, Madam Speaker, is that the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), were able to increase some funding for port security and transit security, and I am pleased that this bill also directs the Homeland Security Department to take concrete actions to protect this country.

For too long the administration has refused to hold the Department of Homeland Security accountable for its actions, and the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), included provisions to make the Department accountable, and to provide the necessary oversight of the Department that has been lacking since its creation.

For example, this bill will impose penalties on the TSA Administrator if a requirement to increase the screening of air cargo is not implemented by the end of the fiscal year.

Madam Speaker, for too long the Bush administration has refused to provide general oversight on the Department of Homeland Security. This fits the pattern of a complete lack of accountability on the part of this administration. From the Education Department paying for its own propaganda with taxpayer funds, to the absence of weapons of mass destruction in Iraq, to the wasting of billions of dollars in Iraqi reconstruction contracts, this administration has made mistake after mistake after mistake.

Yet the Republican Congress does not want to do anything. Ask no question, demand no answers. Under this Republican leadership, the legislative branch of government is barely a twig. And so, Madam Speaker, we see the same things happening in the Department of Homeland Security. After publicly supporting a dramatic increase in the number of air marshals, the last two Bush budgets actually proposed cuts in funding for this important program.

Yesterday at the Rules Committee, the gentleman from Kentucky (Chairman ROGERS) testified at length how the Coast Guard refuses to provide detailed plans for their Deepwater program and how the only way to get their attention is to withhold funds for this program. The same is true with the TSA's implementation of cargo screening measures and the deployment of explosive detection technologies at airports around the country.

Madam Speaker, I am pleased that this bill attempts finally to force some kind of accountability from the administration.

But, finally, Madam Speaker, I want to say something about the rule today. I am pleased that it is an open rule. There have been 30 rules considered so far this year, and only three of those rules have been open. That is a batting average of 100, which will get you kicked off of any self-respecting Little League team. This is no way to run the people's House.

I am also disappointed with the way this rule jeopardizes much of the oversight language written by this bill, by exposing it to points of order. The gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS) worked in a bipartisan way, as they should on an issue like this. This rule undercuts that bipartisanship.

Madam Speaker, for the past 3 years the Homeland Security Appropriations Subcommittee has been this body's only source of oversight of the Department of Homeland Security. Earlier this year the Committee on Homeland Security was established. This committee just reported out its first authorization bill, which will be considered later this week.

Madam Speaker, it is not good policy to strip out the oversight language provided by the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), because of a turf fight between two committees.

□ 1045

The Committee on Homeland Security will have a chance to bring forth its bill this week, and in the future I hope will provide the necessary oversight of the Department so that the Committee on Appropriations does not have to do two jobs; but we should not strike this language from this bill today just because the authorizing committee is unhappy. To do so would be irresponsible, and that is why the rule today should be defeated.

I would say to my friends, especially on the other side of the aisle, that it is a little bit frustrating to hear them talk about accountability on one hand and to support a rule that strips all the accountability from this bill.

We heard last night in the Committee on Rules of the fact that the Homeland Security Department has failed to provide Congress with required reports. We have heard about how deadlines have been missed, one after another. There needs to be accountability.

It is clear that this bill, if this rule passes, does not hold up to that standard of accountability, and I would like to think that the Members of Congress, since we had a role in creating this agency, would want to hold this committee accountable.

This is about our safety. This is about protecting the people of this country, and it is clear that we need to rein in the people over at the Department of Homeland Security.

So, Madam Speaker, I would say in closing that I have great respect for the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Ranking Member SABO). I think they provided the Committee on Rules last night with a good bill that had some teeth in it, that would hold the Department of Homeland Security accountable, but apparently, the Committee on Rules last night decided to just throw all that away.

So I would urge my colleagues to vote ''no'' on the rule.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the opportunity to be here on behalf of this rule today, as my colleague, the gentleman from Massachusetts (Mr. MCGOVERN), points out, is all taking place as a result of the hard work that took place not only between the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Ranking Member SABO); but, really, it was from a lot of work that has taken place over a long period of time, working with the administration, working with the Homeland Security Department.

I must confess that I believe that we should have stronger oversight. I think we agreed on that last night in the Committee on Rules. We are also of the belief that the new leadership at homeland security will continue in this very important task of working with not only the administration but working with our appropriators, our authorizers, the people who are very interested in making sure that we move in a collaborative effort forward for homeland security.

So I am proud of what the bill is today. I think that what the subcommittee did was good work. We are going to get it on the floor today. We are going to debate it. We are going to make it better, and I am proud of the progress that we are making.

Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

Well, I appreciate my colleague from Texas talking about the fact this is a good bill. I agree with him. If it is such a good bill, why did the Committee on Rules allow half the bill to be stripped out?

During the testimony before the Committee on Rules, I think everybody, Democrat and Republican, on that committee praised the work of the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Ranking Member SABO) and talked about the fact that we do need to hold the Department of Homeland Security accountable. I did not hear any dissension during the discussion in the Committee on Rules, and we also think it was a good bill.

Yet, here we are with a rule that would basically strip half of the most important provisions out of the bill. I do not think that is very responsible.

Madam Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Madam Speaker, whoever designed this proposition today is a real piece of work.

This is the bill that was submitted to the Committee on Rules last night, a perfectly coherent bill. I had already indicated my intentions to support the Republican chairman's effort. I thought he did a reasonable job, even though he had inadequate resources.

This is the bill after the Committee on Rules has gotten done with it. Look at this. The Committee has shredded the document that we are supposed to take seriously when we come to this floor and debate it today. It is eviscerated.

I do not understand the majority leadership in this House. Earlier this year, I was asked if I would work out a process which would enable the majority to pass its appropriation bills in a timely fashion. I have been working with the majority; and so far, we have worked out a process which we expect will enable us to support at least seven of the appropriation bills that are coming to the floor.

I had fully expected to stand shoulder to shoulder today with the gentleman from Kentucky, the chairman of the subcommittee, who has done a most thoughtful job in providing necessary oversight for one of the most dysfunctional agencies in this government; and even though he had been given inadequate resources, I had indicated that because of the quality of that oversight I intended to vote for the bill.

That is no longer the case. If this bill is shredded on the floor by points of order made by willful single Members, I will vote against the bill because it will then make no sense whatsoever.

What this action does, in making these provisions subject to a point of order by a single Member, this action puts at risk the thoughtful effort that the committee has put together with respect to securing screening of cargo on passenger airplanes. It puts at risk the funding to ensure that we have a rational terrorist watch match list operation. It puts at risk funding for port security and a number of other items critical to the national defense of the country.

This bill is being eviscerated because of a juvenile, a juvenile, dispute within the Republican caucus about committee jurisdictions. It is what Dick Bolling, my old mentor, used to call dung hill politics, where people put the welfare of their own committee ahead of the welfare of this institution and the welfare of the country. It is little league politics at its worst.

I do not understand how we can be asked on the minority side to sit down and work out a bipartisan agreement on this appropriation bill, and then after we have done so, we are then told that some whiz kid, either in the Committee on Rules or in the leadership's office, has decided that they do not like the compromise and they are going to open it up, to shred it.

The Committee on Homeland Security, the authorization committee that is objecting to some of these provisions in the bill, this is a committee that has existed for 3 years and never put one bill into law. The one bill that has to pass in order to assure this country

adequate security is this bill, the appropriation bill for homeland security; and yet we are going to follow a process today which not only shreds this bill but makes much less likely the prospect that we will finish our regular appropriation bills on time.

If the leadership did not intend to allow this bill to go forward, then why did it even allow it to come up until the authorization committee had gotten off its duff, done its job, completed action on the authorization, so the appropriation committee could then bring the bill to the floor? If the House leadership on the majority side of the aisle did not think it was important enough to pass this bill, then why are we here? Why are we here? Why are we wasting our time?

All this process means is that in the name of jurisdictional purity, the average Member of this House will not have any say whatsoever about the eventual content of the provisions stricken from this bill because those choices will be made behind closed doors, in conference between the two Chambers, out of reach of the average rank-and-file member on both the Committee on Appropriations and the authorization committee. This is a lousy way to run a railroad.

Mr. SESSIONS. Madam Speaker, I yield myself such time as I may consume.

The gentleman makes some very good points about not only his vision and ideas about jurisdictional issues, but I would say to my colleagues today that there is some disappointment on behalf of the gentleman from Kentucky (Mr. ROGERS), our great chairman, who worked very diligently, faithfully not only with homeland security but also others in this Congress who are attempting to make sure that Congress not only has a say about the money that is appropriated but an expectation back from the administration and homeland security about the worthiness of what we believe public policy should be. I think this leadership, I think the Committee on Rules last night heard the argument and were very hopeful that we can reach resolution.

Today, we are going to debate this bill. Today, we are going to pass this rule, and we are going to pass this bill, and it is going to empower not only the gentleman from Minnesota (Mr. SABO) but also the gentleman from Kentucky (Mr. ROGERS) to continue, to go back and do their work, to go back, yes, to the table once again with homeland security and to talk about how important it is that the Homeland Security Department provide information on a timely basis.

It is important for us to continue providing reassurance to the American people that the philosophy, that the plans that are in place and moving forward will meet the continuing threat needs against this country.

What I would say is that we are not going to give up on the process. I do not know that it is perfect. I expressed some reservations myself yesterday in the Committee on Rules about things which I supported, but I believe that our chairman and the ranking member are forthright about their need, their desire to make sure that we will continue working with Department of Homeland Security, even when we have the disagreements. This is a strong sense of the support in Congress that we have for the appropriators to go back and continue to do their work.

So I am proud of what we are doing. I do not think it is a sham. I understand completely why we are here today. I think it will be very clear when we vote today, and it will be a strong signal back to the American public that we intend to be serious about not only the threats that are placed against this country but also those avenues that make sure that our border security continues to provide on a moving-forward basis the ability that we have to meet the threat that is placed against this country.

Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

I am not proud what we are doing here today. I mean, this is a sham; and I would say to the gentleman that the choice is clear: you either support the chairman and you either support holding the Department of Homeland Security accountable or you do not.

The way the Committee on Rules came up with this rule, which subjects all these very important provisions to points of order, makes it impossible to hold the Department of Homeland Security accountable. I do not know how anybody who sat in that Committee on Rules meeting last night, all who agreed that what is going on in the Department of Homeland Security right now is very troubling, missing deadlines, not fulfilling requirements that this Congress has asked them to fulfill, I do not know how they could express solidarity with what the chairman and the ranking member were saying and then support a rule like this which undercuts all the accountability. I mean, this is wrong.

Madam Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. SABO), the ranking Democrat on the committee.

Mr. SABO. Madam Speaker, I thank the gentleman for yielding me time.

I rise to oppose this rule. Funding government is about money, but it is also about how that money is used. This rule leaves unprotected virtually all of the good government provisions in the homeland security appropriations bill. This rule should be defeated.

What does it do? It leaves unprotected provisions that will increase the screening of air cargo trade on passenger and other aircraft.

If my colleagues think we are doing a good job of screening air cargo on passenger planes today, vote for this rule. If my colleagues think we should do what Congress has said in increasing screening on air cargo on passenger planes, then vote ''no'' on this rule.

□ 1100

This rule leaves unprotected a provision that will fund additional explosive detection equipment to check airline passengers and carry-on and checked bags.

This rule leaves unprotected a provision that will ensure that passenger prescreening programs are secure and that the public's vital information is protected.

This rule leaves unprotected provisions to protect taxpayers' dollars from being spent on programs that are not well planned and properly implemented.

This rule leaves unprotected $84 million for checking airline crews and passengers against the government's terrorist watch list. Is that really what we want to do?

This rule leaves unprotected $150 million for port security grants.

This rule leaves unprotected a provision to ensure that those managing big government contracts have the proper training to do so. If you believe that the Department of Homeland Security and the Transportation Security Agency are managing contracts with quality and professional management, then vote for the rule. If you believe there are troubles, as indicated by report after report from the Inspector General and the General Accounting Office, then vote ''no'' on this rule.

This rule leaves unprotected a provision to ensure that only truly sensitive information is designated as such. The Department's current approach permits everyone at TSA to designate any document as sensitive and, therefore, not releasable to the public.

This rule does not allow the Obey amendment to fund the border security requirements of the Intelligence Reform Act and the REAL ID Act.

This rule should be defeated.

The subcommittee developed a responsible bill that provided proper and necessary Congressional oversight of critical homeland security programs. This rule allows that oversight to be decimated.

The fact is that the chairman, the gentleman from Kentucky (Mr. ROGERS), did an outstanding job in developing a bill with proper oversight to present to the House. This rule would allow one-fourth, or a total of 14 pages of this bill, to be deleted.

We are here to conduct serious oversight of the Department of Homeland Security, not simply to rubber stamp the administration's budget request.

I oppose this rule and urge Members to vote against it.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I think we just saw an articulate discussion about how people do need to work together here in Washington and how the ranking member, the gentleman from Minnesota (Mr. SABO), and

our chairman, the gentleman from Kentucky (Mr. ROGERS), worked together in their desire to make sure that Homeland Security is listening and to make sure it is a collaborative effort. We are going to keep after it. We are going to keep doing the right things that will ensure that the American public understands and gets not only every single dollar's worth, not a penny more, but every single dollar's worth of what is paid for that will secure this country, and that involves the efficiency and effectiveness of Homeland Security.

We had a discussion yesterday about the leadership of Homeland Security; how we know it is brand new, how we know the daunting challenge that is ahead of placing together all of these organizations and making them work well together, having them under the same mission statement and making sure that they are funded properly, making sure we hear back from them, making sure they hear back from us.

Really, what this debate is about today is that we are not sure that Homeland Security is effectively listening to us, the policies that we would intend for them to place before the American public; to implement those and to make sure safety and security is taken care of properly, and then, lastly, the information back that will allow the ranking member and our great chairman a chance to philosophically address those changing parameters and threats against this country.

I believe that this administration will be serious about it. I believe the new leadership of Homeland Security in their wisdom and ability to work more carefully as time moves on will answer these questions and they will provide those things that are necessary.

But we just saw a prime example of the kind of steady hand, proper leadership that exists here in the House of Representatives, and I am proud of that. I am proud of this on both sides of the aisle. I think we will continue working together, and I think that is what this legislation will prove worthy of today.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time.

This is an incredibly frustrating moment for many Members in this Chamber. The gentleman from Texas talks about the incredible partnership of the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS), the bipartisanship and their desire to hold the Department of Homeland Security accountable and to make sure that we are all protected. Then he is urging that we support a rule that would basically cut all the provisions in the bill that would hold the Department of Homeland Security accountable. He is urging we support a rule that would basically obliterate the bipartisan agreement that we have come to here.

Every Member of this House gets on an airplane probably at least twice a week. And when you look at the state of airline security, when you look at the deadlines that have been missed, when you look at the reports that they have failed to respond to, you have to ask yourself, why are we not doing a better job in holding them accountable and making sure they keep their deadlines?

Again, in the Committee on Rules last night the gentleman from Texas seemed to agree with all these provisions that were in this bill to hold the Department of Homeland Security accountable, and now he is on the floor telling us to support a rule that would strip the bill of all these provisions. It just does not make any sense to me. Why do we not do this right?

We know what has to be done, let us just do it. Instead, you are taking a good bill and you are just tearing it apart, and it just does not make any sense to me. We need to do this right. We cannot afford to get this wrong.

So I urge my colleagues on both sides of the aisle to appreciate the fact that we have a bipartisan bill here, to appreciate the fact that Chairman ROGERS and Ranking Member SABO and members of this committee worked tirelessly to make sure we that hold this agency accountable. It needs to be held accountable. Nobody disagrees with that. Do not destroy that by voting for this rule. Vote down this rule and let us go back and report another rule immediately, one that respects the agreement that has been reached here.

Mr. Speaker, I will also be asking Members to oppose the previous question. If the previous question is defeated, I will amend the rule so that we can consider the Obey amendment that was not made in order by the Committee on Rules.

Mr. Speaker, the Obey amendment does several things. First, it funds 500 additional border patrol agents, 600 additional immigration investigators, and 4,000 additional detention beds so that the increases called for in the Intelligence Reform Act are fully funded. It also funds the grant program authorizing the REAL ID Act instead of imposing a costly unfunded mandate on our States.

This amendment fully offsets the $500 million in additional funding for this border enforcement and the REAL ID Act by capping at $138,176 the tax cut people making over $1 million this year will receive.

Mr. Speaker, the Republican leadership likes to talk about making this country more secure and about protecting our borders from terrorists, yet they refuse to provide the funds necessary to do this. They also like to brag about how they would never impose an unfunded mandate on States and local governments, yet just 2 weeks ago they did just that.

We have a chance to fix this today by voting for the Obey amendment. It is very disturbing that the Republican leadership of this House would deny Members an opportunity to vote on an amendment to make Americans safer.

As always, I want to emphasize that a ''no'' vote will not prevent us from considering the homeland security appropriations bill, but a ''no'' vote will allow Members to vote on the Obey amendment. However, a ''yes'' vote will prevent us from adequately protecting our borders and from stopping the major financial burden we are placing on States to implement the REAL ID Act.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and a description of the amendment immediately prior to the vote.

The SPEAKER pro tempore (Mr. REHBERG). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. Mr. Speaker, I urge my colleagues to vote ''no'' on the previous question so that we would have an opportunity to fully fund protection of the border and urge my colleagues to vote ''no'' on this rule.

We had a great opportunity in the Committee on Rules last night to do something good and get it right, and they blew it, so vote ''no'' on the rule as well.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time.

We have had a great opportunity to air out our differences today, our hopes and expectations about what we think the brighter and better future will be for the relationship that we have with Homeland Security, and today is part of that process.

I would like to once again reiterate my support for Chairman ROGERS and Ranking Member SABO, but I would also like to extend to the members of the Homeland Security Subcommittee my thanks for a job well done. They have spent a lot of time not only traveling around the country, with interaction and meeting with very important people who are focused on a daily basis on our homeland security, and so I want to thank those Republicans who are members of this subcommittee: The gentleman from Tennessee (Mr. WAMP), the gentleman from Iowa (Mr. LATHAM), the gentlewoman from Missouri (Mrs. EMERSON), the gentleman from New York (Mr. SWEENEY), the gentleman from Arizona (Mr. KOLBE), the gentleman from Illinois (Mr. LAHOOD), the gentleman from Louisiana (Mr. CRENSHAW), the gentleman from Texas (Mr. CARTER), and the vice chairman, the gentleman from Oklahoma (Mr. ISTOOK). It has taken a lot of their hard work, along with our friends on the other side of the aisle to make sure that the legislation would get to the floor today.

I would like to congratulate the chairman of the full committee also, the gentleman from California (Mr. LEWIS), for his hand in making sure this works.

AMENDMENT OFFERED BY MR. SESSIONS

Mr. SESSIONS. Mr. Speaker, I offer an amendment to the resolution.

The Clerk read as follows:

Amendment offered by Mr. SESSIONS:

On page 2, line 21, strike ''; page 17, lines 21 through 24''.

The material previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION H. RES. 278—RULE FOR H.R. 2360 FY06 HOMELAND SECURITY APPROPRIATIONS

At the end of the resolution, add the following new sections:

''SEC. 2. Notwithstanding any other provision of this resolution, the amendment printed in section 3 shall be in order without intervention of any point of order and before any other amendment if offered by Representative Obey of Wisconsin or a designee. The amendment is not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House.

SEC. 3. The amendment referred to in section 2 is as follows:

AMENDMENT TO H.R. 2360, AS REPORTED (HOMELAND SECURITY APPROPRIATIONS, 2006) OFFERED BY MR. OBEY OF WISCONSIN

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) The amounts otherwise provided in this Act for the following accounts are hereby increased by the following sums:

(1) ''Customs and Border Protection—Salaries and Expenses'', $95,000,000.

(2) ''Customs and Border Protection—Construction'', $25,000,000.

(3) ''Immigration and Customs Enforcement—Salaries and Expenses'', $266,000,000.

(4) ''Federal Law Enforcement Training Center—Salaries and Expenses'', $9,000,000.

(5) ''Federal Law Enforcement Training Center—Acquisitions, Construction, Improvements, and Related Expenses'', $5,000,000.

(b) For the Secretary of Homeland Security to make grants pursuant to section 204 of the REAL ID Act of 2005 (Pub. L. 109–13, div. B) to assist States in conforming with minimum drivers' license standards, there is hereby appropriated $100,000,000.

(c) In the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108–27) shall be reduced by 1.562 percent.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on both the amendment and the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on the amendment and on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes, if ordered, on the amendment to House Resolution 278 and the adoption of House Resolution 278.

The vote was taken by electronic device, and there were—yeas 223, nays 185, not voting 25, as follows:

[Roll No. 174]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—185

Abercrombie
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—25

Ackerman
Baird
Boucher
Brady (PA)
Burton (IN)
Carson
Cubin
Davis (IL)
Dingell
Doyle
Fattah
Gohmert
Kanjorski
Kilpatrick (MI)
Larson (CT)
Millender-McDonald
Neal (MA)
Owens
Peterson (MN)
Slaughter
Sweeney
Thomas
Waters
Wicker
Young (FL)

□ 1136

Messrs. BOREN, GORDON, STUPAK and RUSH changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. SLAUGHTER. Mr. Speaker, on rollcall No. 174, had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. REHBERG). The question is on the amendment offered by the gentleman from Texas (Mr. SESSIONS).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 185, answered ''present'' 2, not voting 24, as follows:

[Roll No. 175]

AYES—222

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOES—185

Abercrombie
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Norwood
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ''PRESENT''—2

Emerson
Istook

NOT VOTING—24

Ackerman
Baird
Boucher
Brady (PA)
Burton (IN)
Carson
Cubin
Davis (IL)
Dingell
Doyle
Fattah
Gohmert
Honda
Kanjorski
Kilpatrick (MI)
Larson (CT)
Millender-McDonald
Neal (MA)
Owens
Scott (VA)
Sweeney
Waters
Wicker
Young (FL)

□ 1151

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2360 and that I may include tabular material on the same.

The SPEAKER pro tempore (Mr. REHBERG). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 278 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2360.

□ 1153

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Kentucky (Mr. MIKE ROGERS) and the gentleman from Minnesota (Mr. SABO) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. MIKE ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to be here today to present the fiscal 2006 Homeland Security Appropriations bill.

The first chapter for the Department of Homeland Security has been written. Progress has been made, and our country is safer today than it was before September 11. In 2 years the Department has developed and deployed new technologies to inspect cargo at our seaports and detect hazards in our environment. US–VISIT has been put in place at all international airports and seaports; a one-stop shop for first responders has been created; more than 90,000 national assets have been catalogued in a national infrastructure database; and a communications system with State and local governments is in place.

These are important accomplishments, but they are not enough. There is a great deal of work to be done, and it is time to write the next chapter.

The bill before us today provides $30.8 billion in discretionary funds for the upcoming fiscal year, $1.4 billion above the current year and $1.3 billion above the amounts requested by the President. There are some tough choices in here, but they have been made after a careful review of how the Department is functioning, which programs work, and which ones, quite frankly, are broken.

Nearly 2 years ago, when the Department was first created and came before the Committee on Appropriations seeking funds, I made it clear that homeland security requires the active engagement of all Americans and all branches of government; that we are all stakeholders and must be treated as such. I also advised that the Committee on Appropriations would be a partner as the Department sought to secure our homeland, that we would not be casual bystanders willing to sign a blank check. I have consistently

and repeatedly told the Department that we would require accountability and cooperation, that we would expect them to establish and meet specific milestones, that we would watch and measure their progress. We have done that, exactly that. And, frankly, Mr. Chairman, I am disappointed.

I have come to the conclusion that there are two fundamental challenges within this Department. First, DHS has been slow to build its internal capabilities. The information technology infrastructure has not been integrated. There is no system in place to develop, certify, and transfer homeland security technologies. A financial management system that tracks where the money goes does not exist, and there is only a limited capacity to put first responder funds out on the street based on standards and minimum levels of preparedness.

Second, the Department has not been successful at revising missions and assets of legacy organizations in a way that reflects the post-9/11 homeland security environment. All too many examples come to mind: the Coast Guard, Immigration and Customs Enforcement, Border Protection, and Transportation Security. In too many cases it is just business as usual. Missions and threats have changed, but the Department has not. This is unacceptable. The ''business as usual'' mentality has to go.

The bill before us is anything but business as usual. The Department has been a reluctant partner and has ignored requests for information and direction to move expeditiously in the implementation of important national policies and goals.

This became all too obvious this year when the Department ignored Congressional requests for comprehensive information on the Coast Guard's important Deepwater program. The Department will find that that lack of information has cost them. Absent a revised baseline that reflects post-9/11 mission requirements for the Coast Guard, Deepwater is being funded at pre-9/11 levels, $500 million. That is $466 million below the request. It is a simple equation, Mr. Chairman: No information equals no money.

□ 1200

Throughout this bill, we will see this equation applied. There are more than $485 million in cuts because the Congress did not get the information we needed to make informed decisions about programs and operations. There is also more than $310 million in fenced funding, until the Department performs certain actions, including implementation of new air cargo screening methods and standards, an immigration and border security enforcement strategy, and a plan to deploy explosive detection technologies to our Nation's airports.

Within this bill, first responders are funded at the President's requested level of $3.6 billion. I would like to point out that there continues to be problems at the local, State, and Federal levels in terms of getting money actually out to first responders. We have recently learned, Mr. Chairman, that only 30 percent of the funds that we have appropriated since 2002, have been spent. Including the 2005 grant money, there is $6.8 billion in the grant pipeline.

Mr. Chairman, that is unacceptable.

The bill does not propose any changes to the current formula as to how those monies are dealt out, but it does recognize that legislation which passed this Chamber last week is moving through the process. The appropriations bill will allow 2006 funding to go out based on any formula change that may be signed into law. The bill also presumes that if new formulas do not go into effect, the Department would maintain the minimum allocation for States of .75 percent. The balance of that fund, though, would go out based on risk, threat, and need; not, as it has in the past, based solely on population. That is a fundamental change in the way first responder monies would go out.

The bill also includes a significant increase for border security and immigration enforcement. A total of $1.2 billion is added for the Customs and Border Patrol and the Immigration and Customs Enforcement branches. That funding is on top of the $550 million that was provided in the emergency supplemental just signed. Between that supplemental and this bill, we will be providing the Department with the resources to hire an additional 1,500 border patrol agents and 568 ICE officers throughout the country. Funds are also available to add some 3,870 detention beds, which would be roughly a 20 percent increase over current levels. Also, funds are available for new radiation portal monitors and air assets.

These funds, though, Mr. Chairman, would come with strings attached. Our immigration enforcement strategy needs an overhaul. Despite more than tripling spending on border security and immigration enforcement in the last 10 years, the number of illegal immigrants in the U.S. has more than doubled, an unbelievable 11 million estimated illegal aliens in the country; and that number is growing by a half a million a year, by conservative estimates.

And of that total, there are more than 465,000 absconders, people who have been caught, brought to court, released on their own recognizance to report at a later date, which they fail to do. And of those, 80,000 of them have criminal records. Those numbers, Mr. Chairman, will only get worse unless we act.

Immigration enforcement is one of the most critical components of homeland security, yet the Department's current strategy has changed little since the days of the old Immigration and Naturalization Service. In order to inspire change, the bill includes language requiring the Secretary to submit an immigration enforcement strategy to reduce the number of undocumented aliens by 10 percent per year. The bill withholds $20 million of the Secretary's office funds until we receive that strategy.

Finally, for transportation security, the bill includes $6.4 billion, partially offset by fees, which is an increase of $344 million above the current year. The bill includes several provisions that address years of frustration in dealing with the Transportation Security Administration. For too long, TSA and others have ignored congressional direction regarding general aviation at Reagan National Airport. A legislative provision is included, after these 3 or 4 years of discussions, requiring the Secretary to open Reagan National Airport to general aviation within 90 days of enactment of this act.

The committee also has repeatedly asked for a plan as to how TSA would be installing the explosive detection systems, the so-called x-ray machines, at our airports. Again, TSA has ignored the Congress. In addition to providing $495 million for the purchase and installation of these x-ray machines, the committee fences $50 million of the administrator's funds until an installation plan is provided to the Congress.

Finally, the bill provides $100 million for cargo security in passenger planes. TSA has ignored congressional directions to triple the screening of air cargo on passenger aircraft. As a result, the committee reduces the appropriation for TSA headquarters by $100,000 for each day that the tripling of air cargo is not implemented. The bill also fences another $10 million until new cargo screening standards and protocols are implemented.

These next few years, Mr. Chairman, will define the Department's place in history. This bill may be tough, and I admit that it is, but I hope it is a wakeup call. It is time to take strong action to ensure that the Department's place in history and our safety will be one of success and leadership in securing our homeland and not one of government bureaucracy and failed opportunities. It is now time for action.

I appreciate that the bill includes several tough provisions. I am aware that the new Secretary is in the process of completing what he calls a second-stage review of the Department's programs and operations. I am pleased about that. While I have great respect and confidence in the Department's new leadership, and we look forward to receiving any recommendations the Secretary may have to move the Department forward, we cannot ignore the fundamental problems that we have been experiencing with this Department since its creation. I urge my colleagues to support the measure.

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
DEPARTMENT OF HOMELAND SECURITY					
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS					
Departmental Operations					
Office of the Secretary and Executive Management:					
Immediate Office of the Secretary	2,141	2,393	2,393	+252	---
Immediate Office of the Deputy Secretary	1,112	1,132	1,132	+20	---
Office of Security	21,424	61,278	51,278	+29,854	-10,000
Chief of Staff	5,240	4,103	4,103	-1,137	---
Executive Secretary	3,500	5,491	5,400	+1,900	-91
Office of Policy, Planning and International Affairs	---	8,770	8,770	+8,770	---
Special Assistant to the Secretary/Private Sector	3,781	4,181	4,181	+400	---
Office for National Capital Region Coordination	688	1,072	982	+294	-90
Office of International Affairs	1,200	---	---	-1,200	---
Office of Public Affairs	8,120	9,312	9,172	+1,052	-140
Office of Legislative Affairs	5,400	6,182	5,500	+100	-682
Office of General Counsel	10,821	11,947	11,800	+979	-147
Office of Civil Rights and Liberties	13,000	13,000	13,000	---	---
Citizenship and Immigration Services Ombudsman	3,546	3,652	3,652	+106	---
Homeland Security Advisory Committee	1,287	---	---	-1,287	---
Privacy Officer	3,774	3,981	4,381	+607	+400
Regions	---	49,895	---	---	-49,895
Operation Integration Staff	---	9,459	7,495	+7,495	-1,964
Subtotal, Office of the Secretary and Executive Management	85,034	195,848	133,239	+48,205	-62,609
Office of the Under Secretary for Management:					
Under Secretary for Management	1,434	1,867	1,822	+388	-45
Business Transformation Office	920	948	948	+28	---
Office of the Chief Procurement Officer	7,350	9,020	9,020	+1,670	---
Office of the Human Resources	7,200	---	---	-7,200	---
Office of the Chief Human Capital Officer:					
Salaries and expenses	---	8,996	8,951	+8,951	-45
MAX - HR System	---	53,000	53,000	+53,000	---
Subtotal, Office of the Chief Human Capital Officer	---	61,996	61,951	+61,951	-45
Office of Administration	27,270	---	---	-27,270	---
Office of the Chief Administrative Officer:					
Salaries and expenses	---	40,731	40,286	+40,286	-445
Nebraska Avenue Complex (NAC-DHS Headquarters)	---	26,070	26,070	+26,070	---
Subtotal, Office of the Chief Administrative Officer	---	66,801	66,356	+66,356	-445
Immigration statistics	5,898	5,987	5,987	+89	---
Headquarters	65,081	---	---	-65,081	---
Human resources system	36,000	---	---	-36,000	---
Subtotal, Office of the Under Secretary for Management	151,153	146,619	146,084	-5,069	-535
Office of the Chief Financial Officer	13,000	18,505	18,505	+5,505	---
Office of the Chief Information Officer:					
Salaries and expenses	67,270	75,756	75,756	+8,486	---
Information technology services	91,000	110,944	110,944	+19,944	---
Security activities	31,000	31,000	31,000	---	---
Wireless program	86,000	86,000	86,000	---	---
Subtotal, Office of the Chief Information Officer	275,270	303,700	303,700	+28,430	---
Total, Departmental operations	524,457	664,672	601,528	+77,071	-63,144

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Office of Inspector General					
Operating expenses	82,317	83,017	83,017	+700	---
Total, Office of Inspector General	82,317	83,017	83,017	+700	---
Total, title I, Departmental Management and Operations	606,774	747,689	684,545	+77,771	-63,144
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS					
Office of the Under Secretary for Border and Transportation Security	9,617	10,617	10,617	+1,000	---
U.S. Visitor and Immigrant Status Indicator Technology	340,000	---	---	-340,000	---
Automation Modernization					
U.S. Visitor and Immigrant Status Indicator Technology	---	---	390,232	+390,232	+390,232
FAST	---	---	7,000	+7,000	+7,000
NEXUS/SENTRI	---	---	14,000	+14,000	+14,000
Total, Automation Modernization	---	---	411,232	+411,232	+411,232
Office of Screening Coordination Operations:					
U.S. Visitor and Immigrant Status Indicator Technology	---	390,232	---	---	-390,232
SecureFlight	---	94,294	---	---	-94,294
FAST	---	7,000	---	---	-7,000
NEXUS/SENTRI	---	14,000	---	---	-14,000
Credentialing/Startup	---	20,000	---	---	-20,000
Fee Funded Program:					
TWIC/TSA Credentialing	---	(100,000)	---	---	(-100,000)
Registered Traveler	---	(20,000)	---	---	(-20,000)
HAZMAT	---	(50,000)	---	---	(-50,000)
Alien Flight School (By transfer)	---	(10,000)	---	---	(-10,000)
Total, Office of Screening Coordination Operations	---	(705,526)	---	---	(-705,526)
Appropriations	---	(525,526)	---	---	(-525,526)
(Fee funded programs)	---	(180,000)	---	---	(-180,000)
Customs and Border Protection					
Salaries and expenses	1,172,838	---	---	-1,172,838	---
Salaries and expenses:					
Management and administration, border security inspections and trade facilitation	---	656,826	656,826	+656,826	---
Management and administration, border security and control between port of entry	---	593,207	593,207	+593,207	---
Subtotal, Headquarters management and administration	1,172,838	1,250,033	1,250,033	+77,195	---
Border security inspections and trade facilitation:					
Inspections, trade, and travel facilitation at ports of entry	1,242,800	1,274,994	1,274,994	+32,194	---
Harbor maintenance fee collection (trust fund)	3,000	3,000	3,000	---	---
Container security initiative	126,096	138,790	138,790	+12,694	---
Other international programs	57,300	8,629	8,629	-48,671	---
Customs trade partnership against terrorism/ Free and secure trade	37,828	54,268	54,268	+16,440	---
Inspection and detection technology investments	145,159	188,024	188,024	+42,865	---
Automated targeting systems	29,800	28,253	28,253	-1,547	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
National Targeting Center	16,100	16,697	16,697	+597	---
Other technology investments, including information technology	1,000	1,018	1,018	+18	---
Training	23,800	24,351	24,351	+551	---
Subtotal, Border security inspections and trade facilitation	1,682,883	1,738,024	1,738,024	+55,141	---
Border security and control between ports of entry:					
Border security and control	1,413,800	1,464,989	1,614,989	+201,189	+150,000
Air program operations	37,300	57,971	57,971	+20,671	---
Unmanned aerial vehicles	10,000	10,180	10,180	+180	---
America Shield Initiative (ASI) procurement	64,162	51,084	51,084	-13,078	---
Training	21,700	22,203	22,203	+503	---
Subtotal, Border security and control between ports of entry	1,546,962	1,606,427	1,756,427	+209,465	+150,000
Air and marine operations, personnel compensation and benefits	131,436	136,060	141,060	+9,624	+5,000
Subtotal, Salaries and expenses (gross)	4,534,119	4,730,544	4,885,544	+351,425	+155,000
Appropriations	(4,534,119)	(4,730,544)	(4,885,544)	(+351,425)	(+155,000)
Rescission (P.L. 108-11)	(-63,010)	---	---	(+63,010)	---
Subtotal, Salaries and expenses (net)	4,471,109	4,730,544	4,885,544	+414,435	+155,000
Automation modernization:					
Automated commercial environment/International Trade Data System (ITDS)	321,690	321,690	321,690	---	---
Automated commercial system and legacy IT costs	128,219	136,319	136,319	+8,100	---
Subtotal, Automation modernization	449,909	458,009	458,009	+8,100	---
Air and marine operations:					
Operations and maintenance	196,535	230,682	240,682	+44,147	+10,000
Procurement	61,000	62,098	107,098	+46,098	+45,000
Subtotal, Air and marine operations	257,535	292,780	347,780	+90,245	+55,000
Construction:					
Construction (Border patrol)	91,718	93,418	93,418	+1,700	---
Total, Direct appropriations	5,270,271	5,574,751	5,784,751	+514,480	+210,000
Fee accounts:					
Immigration inspection user fee	(429,000)	(464,816)	(464,816)	(+35,816)	---
Immigration enforcement fines	(6,000)	(6,403)	(6,403)	(+403)	---
Land border inspection fee	(28,000)	(29,878)	(29,878)	(+1,878)	---
COBRA passenger inspection fee	(318,000)	(334,000)	(334,000)	(+16,000)	---
APHIS inspection fee	(204,000)	(204,000)	(204,000)	---	---
Puerto Rico collections	(89,000)	(97,815)	(97,815)	(+8,815)	---
Small airport user fees	(5,004)	(5,234)	(5,234)	(+230)	---
Subtotal, fee accounts	(1,079,004)	(1,142,146)	(1,142,146)	(+63,142)	---
Total, Customs and Border Protection	(6,349,275)	(6,716,897)	(6,926,897)	(+577,622)	(+210,000)
Appropriations	(5,333,281)	(5,574,751)	(5,784,751)	(+451,470)	(+210,000)
Rescission	(-63,010)	---	---	(+63,010)	---
(Fee accounts)	(1,079,004)	(1,142,146)	(1,142,146)	(+63,142)	---

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Immigration and Customs Enforcement					
Salaries and expenses:					
Headquarters Management and Administration (non-Detention and Removal Operations):					
Personnel compensation and benefits, service and other costs	96,202	277,572	277,572	+181,370	---
Headquarters managed IT investment	120,119	134,571	134,571	+14,452	---
Subtotal, Headquarters management and administration	216,321	412,143	412,143	+195,822	---
Investigations:					
Operations	1,055,345	1,215,916	1,253,716	+198,371	+37,800
Training	15,671	17,932	17,932	+2,261	---
Subtotal, Investigations	1,071,016	1,233,848	1,271,648	+200,632	+37,800
Intelligence:					
Headquarters Reporting Center	4,882	4,988	4,988	+106	---
Operations/Operations Center	55,130	56,834	56,834	+1,704	---
Subtotal, Intelligence	60,012	61,822	61,822	+1,810	---
Detention and removal operations:					
Custody management	504,221	600,160	690,160	+185,939	+90,000
Case management	192,269	166,277	166,277	-25,992	---
Fugitive operations	35,242	103,255	119,255	+84,013	+16,000
Institutional removal program	33,719	70,104	88,104	+54,385	+18,000
Alternatives to detention	14,202	33,406	43,406	+29,204	+10,000
Transportation and removal program	311,492	211,266	211,266	-100,226	---
Subtotal, Detention and removal operations	1,091,145	1,184,468	1,318,468	+227,323	+134,000
Subtotal, Salaries and expenses	2,438,494	2,892,281	3,064,081	+625,587	+171,800
Appropriations	(2,438,494)	(2,892,281)	(3,064,081)	(+625,587)	(+171,800)
Emergency appropriations	---	---	---	---	---
Federal air marshals:					
Management and administration	593,552	616,927	626,927	+33,375	+10,000
Travel and training	69,348	71,933	71,933	+2,585	---
Subtotal, Federal air marshals	662,900	688,860	698,860	+35,960	+10,000
Federal protective service:					
Basic security	106,362	109,235	109,235	+2,873	---
Building specific security (including capital equipment replacement/acquisition)	371,638	377,765	377,765	+6,127	---
Subtotal	478,000	487,000	487,000	+9,000	---
Offsetting fee collections	-478,000	-487,000	-487,000	-9,000	---
Automation modernization:					
ATLAS/CHIMERA IT connectivity	39,605	40,150	40,150	+545	---
Construction	26,179	26,546	26,546	+367	---
Total, Direct appropriations	3,167,178	3,647,837	3,829,637	+662,459	+181,800
Fee accounts:					
Immigration inspection user fee	(90,000)	(91,621)	(91,621)	(+1,621)	---
Breached bond/detention fund	(70,000)	(71,260)	(71,260)	(+1,260)	---
Student exchange and visitor fee	(40,000)	(66,552)	(66,552)	(+26,552)	---
Subtotal, fee accounts	(200,000)	(229,433)	(229,433)	(+29,433)	---

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Subtotal, Immigration and Customs Enforcement (gross)	(3,845,178)	(4,364,270)	(4,546,070)	(+700,892)	(+181,800)
Offsetting fee collections	(-478,000)	(-487,000)	(-487,000)	(-9,000)	---
Total, Immigration and Customs Enforcement	(3,367,178)	(3,877,270)	(4,059,070)	(+691,892)	(+181,800)
Appropriations	(3,167,178)	(3,647,837)	(3,829,637)	(+662,459)	(+181,800)
(Fee accounts)	(200,000)	(229,433)	(229,433)	(+29,433)	---
Transportation Security Administration					
Aviation security:					
Screener operations:					
Screener workforce:					
Privatized screening	129,654	146,151	139,654	+10,000	-6,497
Passenger screener - personnel, compensation, and benefits	1,445,486	1,590,969	1,520,000	+74,514	-70,969
Baggage screener - personnel, compensation, and benefits	848,860	931,864	884,000	+35,140	-47,864
Subtotal, Sceener workforce	2,424,000	2,668,984	2,543,654	+119,654	-125,330
Screening training and other:					
Passenger screeners, other	140,614	---	20,952	-119,662	+20,952
Baggage screeners, other	203,660	---	---	-203,660	---
Screener training	---	91,004	85,004	+85,004	-6,000
Screener other	---	170,246	126,294	+126,294	-43,952
Subtotal, Screening training and other	344,274	261,250	232,250	-112,024	-29,000
Human resource services	150,000	207,234	207,234	+57,234	---
CAPPS II	34,919	---	---	-34,919	---
Crew vetting	10,000	---	---	-10,000	---
Registered traveler	15,000	---	---	-15,000	---
Checkpoint support	123,500	157,461	157,461	+33,961	---
EDS/ETD Systems:					
Purchase	180,000	130,000	170,000	-10,000	+40,000
Installation	45,000	14,000	75,000	+30,000	+61,000
Maintenance	174,940	200,000	200,000	+25,060	---
Operation integration	---	23,000	23,000	+23,000	---
Subtotal, EDS/ETD Systems	399,940	367,000	468,000	+68,060	+101,000
Subtotal, Screening operations	3,501,633	3,661,929	3,608,599	+106,966	-53,330
Aviation direction and enforcement:					
Aviation regulation and other enforcement	230,000	238,196	222,416	-7,584	-15,780
Airport management, IT, and support	526,890	758,370	655,597	+128,707	-102,773
FFDO and flight crew training	25,000	36,289	29,000	+4,000	-7,289
Air cargo	40,000	40,000	60,000	+20,000	+20,000
Airport perimeter security	---	---	10,000	+10,000	+10,000
Foreign repair stations	---	---	6,000	+6,000	+6,000
Subtotal, Aviation direction and enforcement	821,890	1,072,855	983,013	+161,123	-89,842
Flight school checks (by transfer)	(9,700)	---	---	(-9,700)	---
Subtotal, Aviation security (gross)	4,323,523	4,734,784	4,591,612	+268,089	-143,172
Offsetting fee collections	-1,823,000	-3,670,000	-1,990,000	-167,000	+1,680,000
Total, Aviation security (net)	2,500,523	1,064,784	2,601,612	+101,089	+1,536,828
Surface transportation security:					
Staffing and operations	24,000	---	---	-24,000	---
Surface transportation security staffing	---	24,000	---	---	-24,000
Enterprise staffing	---	---	24,000	+24,000	+24,000
Transfer to credentialing activities	-27,000	---	---	+27,000	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TWIC	15,000	---	---	-15,000	---
Credentialing start-up	5,000	---	---	-5,000	---
Hazardous materials security	17,000	---	---	-17,000	---
Hazardous materials truck tracking/training	2,000	---	4,000	+2,000	+4,000
Rail security (inspectors)	12,000	8,000	8,000	-4,000	---
Subtotal, Surface transportation security	48,000	32,000	36,000	-12,000	+4,000
Credentialing activities	67,000	---	---	-67,000	---
Offsetting fee collections	-67,000	---	---	+67,000	---
Transportation Vetting and Credentialing:					
SecureFlight	---	---	65,994	+65,994	+65,994
Crew vetting	---	---	13,300	+13,300	+13,300
Screening administration and operations	---	---	5,000	+5,000	+5,000
Total, Direct appropriations	---	---	84,294	+84,294	+84,294
Fee accounts:					
Registered Traveler Program fees	---	---	(20,000)	(+20,000)	(+20,000)
TWIC fees	---	---	(100,000)	(+100,000)	(+100,000)
HAZMAT fees	---	---	(50,000)	(+50,000)	(+50,000)
Alien Flight School (by transfer from DOJ) - fees	---	---	(10,000)	(+10,000)	(+10,000)
Subtotal, fee accounts	---	---	(180,000)	(+180,000)	(+180,000)
Subtotal, Transportation Vetting and Credentialing (gross)	---	---	(264,294)	(+264,294)	(+264,294)
Transportation security support:					
Intelligence	14,000	21,000	21,000	+7,000	---
Administration:					
Headquarters administration	267,382	302,781	309,916	+42,534	+7,135
Mission support centers	5,000	3,051	---	-5,000	-3,051
Information technology	240,470	210,092	210,092	-30,378	---
Corporate training	7,000	8,084	---	-7,000	-8,084
Subtotal, Administration	519,852	524,008	520,008	+156	-4,000
Research and development:					
Research and development at Tech Center	49,000	---	---	-49,000	---
Next generation explosive detection systems and explosive trace detection	54,000	---	---	-54,000	---
Air cargo	75,000	---	---	-75,000	---
Subtotal, Research and development	178,000	---	---	-178,000	---
Subtotal, Transportation security support	711,852	545,008	541,008	-170,844	-4,000
Aviation security capital fund	(250,000)	(250,000)	(250,000)	---	---
Total, Transportation Security Administration (gross)	5,333,375	5,561,792	5,682,914	+349,539	+121,122
Offsetting fee collections	-1,890,000	-3,670,000	-1,990,000	-100,000	+1,680,000
Aviation security capital fund	(250,000)	(250,000)	(250,000)	---	---
Fee accounts	---	---	(180,000)	(+180,000)	(+180,000)
Total, Transportation Security Administration (net)	3,260,375	1,641,792	3,262,914	+2,539	+1,621,122
United States Coast Guard					
Operating expenses:					
Military pay and allowances	2,807,827	3,011,130	3,009,550	+201,723	-1,580
Civilian pay and benefits	456,110	535,836	531,811	+75,701	-4,025
Training and recruiting	161,441	178,212	178,212	+16,771	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Operating funds and unit level maintenance	924,125	985,309	967,414	+43,289	-17,895
Centrally managed accounts	175,438	193,936	193,936	+18,498	---
Coast Guard watch standards	9,000	---	---	-9,000	---
Intermediate and depot level maintenance	623,279	642,977	642,977	+19,698	---
Emergency appropriations (P.L. 108-324)	33,367	---	---	-33,367	---
Unspecified reduction	---	---	-23,900	-23,900	-23,900
Subtotal, Operating expenses	5,190,587	5,547,400	5,500,000	+309,413	-47,400
Less adjustment for defense function	-1,204,000	-340,000	-1,200,000	+4,000	-860,000
Defense function	1,204,000	340,000	1,200,000	-4,000	+860,000
Subtotal, Operating expenses	5,190,587	5,547,400	5,500,000	+309,413	-47,400
Appropriations	(3,953,220)	(5,207,400)	(4,300,000)	(+346,780)	(-907,400)
Defense function	(1,204,000)	(340,000)	(1,200,000)	(-4,000)	(+860,000)
Emergency appropriations	(33,367)	---	---	(-33,367)	---
Environmental compliance and restoration	17,000	12,000	12,000	-5,000	---
Reserve training	113,000	119,000	119,000	+6,000	---
Acquisition, construction, and improvements:					
Vessels:					
Great Lakes Icebreaker (GLIB) replacement	7,750	---	---	-7,750	---
Response boat medium (41ft UTB and NSB replacement)	12,000	22,000	22,000	+10,000	---
Subtotal, Vessels	19,750	22,000	22,000	+2,250	---
Aircraft:					
Armed helicopter equipment (Phase I) (legacy asset)	2,500	19,902	19,902	+17,402	---
Covert surveillance aircraft	---	---	10,000	+10,000	+10,000
C-130J Missionization	---	5,000	---	---	-5,000
Subtotal, Aircraft	2,500	24,902	29,902	+27,402	+5,000
Other equipment:					
Automatic identification system	24,000	29,100	29,100	+5,100	---
National distress and response system modernization (Rescue 21)	134,000	101,000	91,000	-43,000	-10,000
HF Recap	---	10,000	10,000	+10,000	---
Rescission (P.L. 108-90)	-16,000	---	---	+16,000	---
Subtotal, Other equipment	142,000	140,100	130,100	-11,900	-10,000
Personnel compensation and benefits:					
Core acquisition costs	500	500	500	---	---
Direct personnel cost	72,500	75,950	75,950	+3,450	---
Subtotal, Personnel compensation and benefits	73,000	76,450	76,450	+3,450	---
Integrated deepwater systems:					
Aircraft:					
Aircraft, other	86,250	125,900	---	-86,250	-125,900
HH-65 re-engining	99,000	133,100	---	-99,000	-133,100
Subtotal, Aircraft	185,250	259,000	---	-185,250	-259,000
Surface ships	364,300	522,400	---	-364,300	-522,400
C4ISR	53,600	74,400	---	-53,600	-74,400
Logistics	39,800	25,200	---	-39,800	-25,200
Systems engineering and integration	43,000	45,000	---	-43,000	-45,000
Government program management	38,000	40,000	---	-38,000	-40,000
Miscellaneous	---	---	500,000	+500,000	+500,000
Subtotal, Integrated deepwater systems	723,950	966,000	500,000	-223,950	-466,000
Shore facilities and aids to navigation:					
Shore operational and support projects	1,000	5,000	5,000	+4,000	---
Shore construction projects	1,600	3,000	3,000	+1,400	---
Small arms range at ISC Honolulu, HI	1,600	---	---	-1,600	---

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Renovate USCGA Chase Hall Barrack, Phase I....	---	15,000	15,000	+15,000	---
Replace multi-purpose building - Group Long Island Sound.....	---	10,000	10,000	+10,000	---
Construct breakwater - Station Neah Bay.....	---	2,800	2,800	+2,800	---
Waterways aids to navigation infrastructure...	800	3,900	3,900	+3,100	---
Subtotal, Shore facilities and aids to navigation.....	5,000	39,700	39,700	+34,700	---
Subtotal, Acquisition, construction, and improvements (net).....	966,200	1,269,152	798,152	-168,048	-471,000
Appropriations.....	(982,200)	(1,269,152)	(798,152)	(-184,048)	(-471,000)
Rescissions.....	(-16,000)	---	---	(+16,000)	---
Alteration of bridges.....	15,900	---	15,000	-900	+15,000
Research, development, test, and evaluation.....	18,500	---	---	-18,500	---
Subtotal, U.S. Coast Guard discretionary.....	6,321,187	6,947,552	6,444,152	+122,965	-503,400
Retired pay (mandatory).....	1,085,460	1,014,080	1,014,080	-71,380	---
Total, United States Coast Guard.....	7,406,647	7,961,632	7,458,232	+51,585	-503,400
Appropriations.....	(7,389,280)	(7,961,632)	(7,458,232)	(+68,952)	(-503,400)
Emergency appropriations.....	(33,367)	---	---	(-33,367)	---
Rescissions.....	(-16,000)	---	---	(+16,000)	---
United States Secret Service					
Salaries and expenses:					
Protection:					
Protection of persons and facilities.....	571,640	572,232	583,652	+12,012	+11,420
National special security event fund.....	5,000	5,000	10,000	+5,000	+5,000
Protective intelligence activities.....	53,989	55,561	57,061	+3,072	+1,500
White House mail screening.....	16,365	16,365	16,365	---	---
Subtotal, Protection.....	646,994	649,158	667,078	+20,084	+17,920
Field operations:					
Domestic field operations.....	221,489	238,888	238,888	+17,399	---
International field office administration, operations and training.....	19,208	19,768	22,168	+2,960	+2,400
Electronic crimes special agent program and electronic crimes task forces.....	34,536	35,600	43,600	+9,064	+8,000
Subtotal, Field operations.....	275,233	294,256	304,656	+29,423	+10,400
Administration:					
Headquarters, management and administration...	197,747	203,232	203,232	+5,485	---
National Center for Missing and Exploited Children.....	7,100	7,100	7,678	+578	+578
Subtotal, Administration.....	204,847	210,332	210,910	+6,063	+578
Training:					
Rowley training center.....	45,051	46,337	46,337	+1,286	---
Subtotal, Salaries and expenses.....	1,172,125	1,200,083	1,228,981	+56,856	+28,898
Operating expenses (rescission) (P.L. 108-11).....	-750	---	---	+750	---
Acquisition, construction, improvements and related expenses (Rowley training center).....	3,633	3,699	3,699	+66	---
Total, United States Secret Service.....	1,175,008	1,203,782	1,232,680	+57,672	+28,898

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Total, title II, Security, Enforcement, and Investigations:					
New budget (obligational) authority	20,629,096	20,565,937	21,990,063	+1,360,967	+1,424,126
Appropriations	(20,675,489)	(20,565,937)	(21,990,063)	(+1,314,574)	(+1,424,126)
Emergency appropriations	(33,367)	---	---	(-33,367)	---
Rescission	(-79,760)	---	---	(+79,760)	---
TITLE III - PREPAREDNESS AND RECOVERY					
Office of State and Local Government Coordination and Preparedness					
Management and administration	3,546	---	3,546	---	+3,546
State and local programs:					
Salaries and expenses	---	3,546	---	---	-3,546
State and local basic formula grants	1,100,000	---	750,000	-350,000	+750,000
State Homeland Seurity Grant Program:					
State and local basic formula grants	---	1,020,000	---	---	-1,020,000
Emergency management performance grants	---	170,000	---	---	-170,000
Citizen Corps	---	50,000	---	---	-50,000
Subtotal, State Homeland Security Grant Pgm	---	1,240,000	---	---	-1,240,000
Law enforcement terrorism prevention grants	400,000	---	400,000	---	+400,000
Urban area security initiative:					
High-threat, high-density urban area	885,000	1,020,000	850,000	-35,000	-170,000
Targeted infrastructure protection	---	600,000	---	---	-600,000
Buffer Zone Protection Program	---	---	50,000	+50,000	+50,000
Port security grants	150,000	---	150,000	---	+150,000
Rail and transit security	150,000	---	150,000	---	+150,000
Trucking security grants	5,000	---	5,000	---	+5,000
Intercity bus security grants	10,000	---	10,000	---	+10,000
Subtotal, Urban area security initiative	1,200,000	1,620,000	1,215,000	+15,000	-405,000
Commercial equipment direct assistance program	50,000	---	50,000	---	+50,000
National programs:					
National domestic preparedness consortium	135,000	80,000	125,000	-10,000	+45,000
National exercise program	52,000	52,000	52,000	---	---
Technical assistance	30,000	7,600	20,000	-10,000	+12,400
Metropolitan medical response system	30,000	---	40,000	+10,000	+40,000
Demonstration training grants	30,000	---	35,000	+5,000	+35,000
Continuing training grants	25,000	3,010	30,000	+5,000	+26,990
Citizen Corps	15,000	---	40,000	+25,000	+40,000
Evaluations and assessments	14,300	14,300	14,300	---	---
Rural domestic preparedness consortium	5,000	---	10,000	+5,000	+10,000
Subtotal, National programs	336,300	156,910	366,300	+30,000	+209,390
Management and administration	---	44,300	---	---	-44,300
Subtotal, State and local programs	3,086,300	3,064,756	2,781,300	-305,000	-283,456
Firefighter assistance grants	650,000	---	---	-650,000	---
Fire department staffing assistance grants:					
Grants	---	500,000	550,000	+550,000	+50,000
Staffing for Adequate Fire and Emergency Response (SAFER) Act	65,000	---	50,000	-15,000	+50,000
Subtotal, Firefighter assistance grants	715,000	500,000	600,000	-115,000	+100,000
Emergency Management Performance Grants	180,000	---	180,000	---	+180,000
Total, Office of State and Local Government Coordination and Preparedness	3,984,846	3,564,756	3,564,846	-420,000	+90

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Counterterrorism Fund					
Counterterrorism fund	8,000	10,000	10,000	+2,000	---
Emergency Preparedness and Response					
Office of the Under Secretary for Emergency Preparedness and Response	4,211	4,306	2,306	-1,905	-2,000
Preparedness, mitigation, response and recovery:					
Operating activities	209,499	228,499	242,499	+33,000	+14,000
Urban search and rescue teams	30,000	7,000	7,000	-23,000	---
Subtotal, Preparedness, mitigation, response and recovery	239,499	235,499	249,499	+10,000	+14,000
Operating expenses (rescission)	-5,000	---	---	+5,000	---
Administrative and regional operations	202,939	170,441	177,441	-25,498	+7,000
Defense function	---	48,000	48,000	+48,000	---
Subtotal, Administrative and regional operations	202,939	218,441	225,441	+22,502	+7,000
Public health programs:					
National disaster medical system	34,000	34,000	34,000	---	---
Subtotal, Public health programs	34,000	34,000	34,000	---	---
Radiological emergency preparedness program	-1,000	-1,266	-1,266	-266	---
Biodefense countermeasures:					
Advance appropriations, FY 2005 (P.L. 108-324)	2,507,776	---	---	-2,507,776	---
Subtotal, Biodefense countermeasures	2,507,776	---	---	-2,507,776	---
Disaster relief	2,042,380	2,140,000	2,023,900	-18,480	-116,100
Emergency appropriations (P.L. 108-324)	6,500,000	---	---	-6,500,000	---
Subtotal, Disaster Relief	8,542,380	2,140,000	2,023,900	-6,518,480	-116,100
Disaster assistance direct loan program account:					
(Limitation on direct loans)	(25,000)	(25,000)	(25,000)	---	---
Administrative expenses	567	567	567	---	---
Flood map modernization fund	200,000	200,068	200,000	---	-68
National flood insurance fund:					
Salaries and expenses	33,336	36,496	36,496	+3,160	---
Severe reptitive loss mitigation	---	---	40,000	+40,000	+40,000
Repetitive loss mitigation	---	---	10,000	+10,000	+10,000
Flood mitigation	79,257	87,358	99,358	+20,101	+12,000
Offsetting fee collections	-112,593	-123,854	-185,854	-73,261	-62,000
(Transfer to National flood mitigation fund)	(-20,000)	(-28,000)	(-40,000)	(-20,000)	(-12,000)
National flood mitigation fund (by transfer)	(20,000)	(28,000)	(40,000)	(+20,000)	(+12,000)
National pre-disaster mitigation fund	100,000	150,062	150,000	+50,000	-62
Emergency food and shelter	153,000	153,000	153,000	---	---
Total, Emergency Preparedness and Response (net)	11,978,372	3,134,677	3,037,447	-8,940,925	-97,230
Appropriations	(2,975,596)	(3,134,677)	(3,037,447)	(+61,851)	(-97,230)
Rescission	(-5,000)	---	---	(+5,000)	---
Emergency appropriations	(6,500,000)	---	---	(-6,500,000)	---
Advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Total, title III, Preparedness and Recovery:					
New budget (obligational) authority	15,971,218	6,709,433	6,612,293	-9,358,925	-97,140
Appropriations	(6,968,442)	(6,709,433)	(6,612,293)	(-356,149)	(-97,140)
Advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Emergency appropriations	(6,500,000)	---	---	(-6,500,000)	---

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Rescissions	(-5,000)	---	---	(+5,000)	---
(Limitation on direct loans)	(25,000)	(25,000)	(25,000)	---	---
(Transfer out)	(-20,000)	(-28,000)	(-40,000)	(-20,000)	(-12,000)
(By transfer)	(20,000)	(28,000)	(40,000)	(+20,000)	(+12,000)
TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES					
Citizenship and Immigration Services					
Backlog reduction initiative:					
Contracting services	120,000	70,000	70,000	-50,000	---
Other	20,000	10,000	10,000	-10,000	---
Digitization	20,000	---	40,000	+20,000	+40,000
Subtotal, Backlog reduction initiative	160,000	80,000	120,000	-40,000	+40,000
Adjudication services (fee account):					
Pay and benefits	(580,000)	(607,000)	(607,000)	(+27,000)	---
Operating expenses:					
District operations	(293,000)	(389,000)	(389,000)	(+96,000)	---
Service center operations	(233,000)	(260,000)	(260,000)	(+27,000)	---
Asylum, refugee and international operations	(73,000)	(74,000)	(74,000)	(+1,000)	---
Records operations	(65,000)	(66,000)	(66,000)	(+1,000)	---
Subtotal, Adjudication services	(1,244,000)	(1,396,000)	(1,396,000)	(+152,000)	---
Information and customer services (fee account):					
Pay and benefits	(78,000)	(80,000)	(80,000)	(+2,000)	---
Operating expenses:					
National Customer Service Center	(46,000)	(47,000)	(47,000)	(+1,000)	---
Information services	(14,000)	(14,000)	(14,000)	---	---
Subtotal, Information and customer services	(138,000)	(141,000)	(141,000)	(+3,000)	---
Administration (fee account):					
Pay and benefits	(43,000)	(44,000)	(44,000)	(+1,000)	---
Operating expenses	(190,000)	(193,000)	(193,000)	(+3,000)	---
Subtotal, Administration	(233,000)	(237,000)	(237,000)	(+4,000)	---
Total, Citizenship and Immigration Services	(1,775,000)	(1,854,000)	(1,894,000)	(+119,000)	(+40,000)
Appropriations	(160,000)	(80,000)	(120,000)	(-40,000)	(+40,000)
(Immigration Examination Fee Account)	(1,571,000)	(1,730,000)	(1,730,000)	(+159,000)	---
(H-1B and L Fraud Prevention and Detection Fee Account)	(31,000)	(31,000)	(31,000)	---	---
(H-1B Non-Immigrant Petitioner Fee Account)	(13,000)	(13,000)	(13,000)	---	---
Federal Law Enforcement Training Center					
Salaries and expenses:					
Salaries and expenses	177,440	183,362	194,000	+16,560	+10,638
Subtotal, Salaries and expenses	177,440	183,362	194,000	+16,560	+10,638
Acquisition, Construction, Improvements and Related expenses:					
Direct appropriation	44,917	40,636	64,743	+19,826	+24,107
Subtotal, Acquisition, Construction and Related Expenses	44,917	40,636	64,743	+19,826	+24,107
Total, Federal Law Enforcement Training Center	222,357	223,998	258,743	+36,386	+34,745

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Information Analysis and Infrastructure Protection					
Management and administration:					
Office of the Under Secretary for Information Analysis and Infrastructure Protection	5,864	6,878	6,878	+1,014	---
Other salaries and expenses	126,200	197,127	191,322	+65,122	-5,805
Subtotal, Management and administration	132,064	204,005	198,200	+66,136	-5,805
Assessments and evaluations:					
Critical infrastructure outreach and partnerships	106,592	67,177	62,177	-44,415	-5,000
Critical infrastructure identification and evaluation	77,861	72,173	77,173	-688	+5,000
National Infrastructure Simulation and Analysis Center (NISAC)	20,000	16,000	16,000	-4,000	---
Protective actions	191,647	91,399	91,399	-100,248	---
Biosurveillance	11,000	11,147	10,147	-853	-1,000
Cyber security	67,380	73,349	73,349	+5,969	---
NS-EP Telecommunications	140,754	142,632	142,632	+1,878	---
Competitive analysis and evaluation	4,000	---	---	-4,000	---
Threat determination and assessment	21,943	19,900	19,900	-2,043	---
Infrastructure vulnerability and risk assessment	71,080	74,347	74,347	+3,267	---
Evaluation and studies	14,387	34,526	34,526	+20,139	---
Homeland Security Operations Center (HSOC)	35,000	61,108	56,108	+21,108	-5,000
Information Sharing and Collaboration	---	5,482	5,482	+5,482	---
Subtotal, Assessments and evaluations	761,644	669,240	663,240	-98,404	-6,000
Total, Information Analysis and Infrastructure Protection	893,708	873,245	861,440	-32,268	-11,805
Science and Technology					
Management and administration:					
Office of the Under Secretary for Science and Technology	6,315	---	---	-6,315	---
Other salaries and expenses	62,271	81,399	81,399	+19,128	---
Subtotal, Management and administration	68,586	81,399	81,399	+12,813	---
Research, development, acquisition, and operations:					
Biological countermeasures:					
Operating expenses	362,650	23,300	21,000	-341,650	-2,300
Defense function	---	339,000	339,000	+339,000	---
Subtotal, Biological countermeasures	362,650	362,300	360,000	-2,650	-2,300
Chemical countermeasures	53,000	102,000	90,000	+37,000	-12,000
High explosives countermeasures	19,700	14,700	54,700	+35,000	+40,000
Threat and vulnerability, testing and assessment	65,800	47,000	47,000	-18,800	---
Conventional missions in support of DHS	54,650	93,650	80,000	+25,350	-13,650
Technology development and transfer	---	---	10,000	+10,000	+10,000
Rapid prototyping program	76,000	20,900	30,000	-46,000	+9,100
Standards	39,700	35,500	35,500	-4,200	---
Emerging threats	10,750	10,500	10,500	-250	---
Critical infrastructure protection	27,000	20,800	35,800	+8,800	+15,000
University programs/homeland security fellowship	70,000	63,600	63,600	-6,400	---
National Biodefense Analysis and Countermeasures Center construction	35,000	---	---	-35,000	---
Counter MANPADs	61,000	110,000	110,000	+49,000	---
Safety act	10,000	5,600	10,000	---	+4,400
Cyber security	18,000	16,700	16,700	-1,300	---
Interoperability and communications	21,000	---	---	-21,000	---
Office of interoperability and compatibility	---	20,500	41,500	+41,500	+21,000
Research and development consolidation	---	116,897	116,897	+116,897	---
Radiological and nuclear countermeasures	122,614	19,086	19,086	-103,528	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Domestic nuclear detection office	---	227,314	127,314	+127,314	-100,000
Subtotal, Research, development, acquisition, and operations	1,046,864	1,287,047	1,258,597	+211,733	-28,450
Total, Science and Technology	1,115,450	1,368,446	1,339,996	+224,546	-28,450
Total, title IV, Research and Development, Training Assessments, and Services:					
New budget (obligational) authority	2,391,515	2,545,689	2,580,179	+188,664	+34,490
TITLE V - GENERAL PROVISIONS					
Sec. 526:					
Rescission, 110-to-123 Conversions (P.L.108-90 and P.L. 108-334)	---	---	-84,000	-84,000	-84,000
110ft Island Class Patrol Boat procurement or refurbishment	---	---	84,000	+84,000	+84,000
Sec. 531:					
Rescission, Working Capital Fund	---	---	-7,000	-7,000	-7,000
Total, title V, General Provisions:					
New budget (obligational) authority	---	---	-7,000	-7,000	-7,000
Grand total, Department of Homeland Security:					
New budget (obligational) authority	39,598,603	30,568,748	31,860,080	-7,738,523	+1,291,332
Appropriations	(30,642,220)	(30,568,748)	(31,951,080)	(+1,308,860)	(+1,382,332)
Advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Emergency appropriations	(6,533,367)	---	---	(-6,533,367)	---
Rescissions	(-84,760)	---	(-91,000)	(-6,240)	(-91,000)
Fee funded programs	(2,894,004)	(3,325,579)	(3,325,579)	(+431,575)	---
(Limitation on direct loans)	(25,000)	(25,000)	(25,000)	---	---
(Transfer out)	(-20,000)	(-28,000)	(-40,000)	(-20,000)	(-12,000)
(By transfer)	(20,000)	(28,000)	(40,000)	(+20,000)	(+12,000)

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Less emergency appropriations	-6,533,367	---	---	+6,533,367	---
Total, scorekeeping adjustments	-6,533,367	---	---	+6,533,367	---
Total (including adjustments)	33,065,236	30,568,748	31,860,080	-1,205,156	+1,291,332
Amount in this bill	(39,598,603)	(30,568,748)	(31,860,080)	(-7,738,523)	(+1,291,332)
Scorekeeping adjustments	(-6,533,367)	---	---	(+6,533,367)	---
Total mandatory and discretionary	33,065,236	30,568,748	31,860,080	-1,205,156	+1,291,332
Mandatory	(1,085,460)	(1,014,080)	(1,014,080)	(-71,380)	---
Discretionary	(31,979,776)	(29,554,668)	(30,846,000)	(-1,133,776)	(+1,291,332)
Discretionary Function Recap:					
Non-defense	30,775,776	28,827,668	29,259,000	-1,516,776	+431,332
Defense	1,204,000	727,000	1,587,000	+383,000	+860,000
Total	31,979,776	29,554,668	30,846,000	-1,133,776	+1,291,332

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
DEPARTMENT OF HOMELAND SECURITY SUMMARY					
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS					
Departmental operations	524,457	664,672	601,528	+77,071	-63,144
Office of Inspector General	82,317	83,017	83,017	+700	---
Total, title I	606,774	747,689	684,545	+77,771	-63,144
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS					
Office of the Under Secretary for Border and Transportation Security	9,617	10,617	10,617	+1,000	---
U.S. Visitor and Immigrant Status Indication Techology	340,000	---	---	-340,000	---
Automation Modernization	---	---	411,232	+411,232	+411,232
Office of Screening Coordination Operations	---	525,526	---	---	-525,526
Customs and border protection	6,349,275	6,716,897	6,926,897	+577,622	+210,000
Direct appropriations	(5,333,281)	(5,574,751)	(5,784,751)	(+451,470)	(+210,000)
Fee accounts	(1,079,004)	(1,142,146)	(1,142,146)	(+63,142)	---
Immigration and customs enforcement	3,367,178	3,877,270	4,059,070	+691,892	+181,800
Direct appropriations	(3,645,178)	(4,134,837)	(4,316,637)	(+671,459)	(+181,800)
Offsetting fee collections	(-478,000)	(-487,000)	(-487,000)	(-9,000)	---
Fee accounts	(200,000)	(229,433)	(229,433)	(+29,433)	---
Transportation Security Administration	3,260,375	1,641,792	3,262,914	+2,539	+1,621,122
Direct appropriations	(5,083,375)	(5,311,792)	(5,432,914)	(+349,539)	(+121,122)
Offsetting fee collections	(-1,890,000)	(-3,670,000)	(-1,990,000)	(-100,000)	(+1,680,000)
United States Coast Guard	7,406,647	7,961,632	7,458,232	+51,585	-503,400
United States Secret Service	1,175,008	1,203,782	1,232,680	+57,672	+28,898
TOTAL, title II, direct appropriations	20,629,096	20,565,937	21,990,063	+1,360,967	+1,424,126
TITLE III - PREPAREDNESS AND RECOVERY					
Office of State and Local Government Coordination and Preparedness	3,984,846	3,564,756	3,564,846	-420,000	+90
Counterterrorism fund	8,000	10,000	10,000	+2,000	---
Emergency preparedness and response	11,978,372	3,134,677	3,037,447	-8,940,925	-97,230
Direct appropriations	(2,975,596)	(3,134,677)	(3,037,447)	(+61,851)	(-97,230)
Emergency appropriations	(6,500,000)	---	---	(-6,500,000)	---
Offsetting fee collections	(-112,593)	(-123,854)	(-185,854)	(-73,261)	(-62,000)
Biodefense countermeasures advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Total, title III	15,971,218	6,709,433	6,612,293	-9,358,925	-97,140
TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES					
Citizenship and immigration services	1,775,000	1,854,000	1,894,000	+119,000	+40,000
Direct appropriations	(160,000)	(80,000)	(120,000)	(-40,000)	(+40,000)
Fee accounts	(1,615,000)	(1,774,000)	(1,774,000)	(+159,000)	---
Federal law enforcement training center	222,357	223,998	258,743	+36,386	+34,745
Information analysis and infrastructure protection	893,708	873,245	861,440	-32,268	-11,805
Science and technology	1,115,450	1,368,446	1,339,996	+224,546	-28,450
Total, title IV, direct appropriations	2,391,515	2,545,689	2,580,179	+188,664	+34,490
TITLE V - GENERAL PROVISIONS					
General provisions	---	---	-7,000	-7,000	-7,000
Total, title V, General provisions	---	---	-7,000	-7,000	-7,000
Scorekeeping adjustments	-6,533,367	---	---	+6,533,367	---
TOTAL, DEPARTMENT OF HOMELAND SECURITY	33,065,236	30,568,748	31,860,080	-1,205,156	+1,291,332

Mr. ROGERS of Kentucky, Mr. Chairman, I submit the following exchange of letters for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 17, 2005.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN THOMAS. Thank you for your letter regarding H.R. 2360, the Department of Homeland Security Appropriations Act for fiscal year 2006. As you have noted, the bill is scheduled for floor consideration on Tuesday, May 17, 2005. I appreciate your agreement to expedite the passage of this legislation although it contains a provision involving overtime pay that falls within your Committee's jurisdiction. I appreciate your decision to forgo further action on the bill and acknowledge that it will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation.

Our committees have worked closely together on this important initiative, and I am very pleased we are continuing that cooperation. I appreciate your helping us to move this legislation quickly to the floor. Finally, I will include in the Congressional Record a copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. We look forward to working with you in the future.

Best regards,

HAROLD ROGERS,
Chairman.

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 16, 2005.

Hon. HAROLD ROGERS,
Chairman, Subcommittee on Homeland Security, Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN ROGERS: I am writing concerning H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006 which is scheduled for floor consideration on Tuesday, May 17, 2005.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning customs and Title 19, U.S.C. 267(c)(1). There is a provision within the bill which involves overtime pay for U.S. Customs and Border Protection employees and thus falls within the jurisdiction of the Committee on Ways and Means.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to exercising its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 2360 and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to thank the gentleman from Kentucky (Chairman ROGERS) for his cooperation and good work in bringing this bill to the House. This bill, in its current form, represents a substantial improvement over the President's budget request.

My comments are related to the bill as it stands. I am not sure, after all the points of order are made today, what will remain in the bill; but as the bill stands, there are many good things in this bill, including better funding for border enforcement and separate programs for transit and port security grants. I appreciate that the chairman worked with us to toughen up the bill on air cargo screening, chemical plant security, and privacy safeguards.

The Department has a long way to go in these areas. However, this bill pushes them to improve operations and better secure our Nation. I would especially like to point out the air cargo screening provisions in this bill. One of these provisions penalizes TSA for not complying with last year's law which required a threefold air cargo screening increase. Another provision mandates that TSA utilize their equipment to screen air cargo during the downtime in checked baggage screening. This should help raise the screened percentage of air cargo even further. Last, the bill includes $30 million for three air cargo screening pilot programs, two at passenger operations and one at an all-cargo operation.

The report accompanying this bill directs the Secretary to ensure that all DHS contracts with companies that collect personal information, such as ChoicePoint, will require the companies to have security procedures to properly notify individuals if their personal information is lost or stolen. The personal data of hundreds of thousands of people have been compromised in recent months. For 49 States, there is no requirement for companies to notify the affected people. We should require notification government-wide, and this provision takes an important step in the right direction.

The bill also demands that the Department get its act together to develop proper standards and processes for designating the information as ''security-sensitive.'' Today, TSA has no meaningful procedures to designate ''security sensitive'' documents. This has led, I believe, to TSA withholding information from the public that should be disclosed. This bill directs the Department to limit the number of people who can designate such information to establish internal controls to audit these designations.

I do have reservations about some parts of this bill, especially the funding levels for fire grants and the State homeland security formula grants. We will have an amendment relating to fire grants later. I happen to be in probably a small minority who thinks it is a mistake to distribute a portion of the State formula grant based on risk and vulnerability versus population.

Let us be clear. The urban initiative grant is distributed on a discretionary basis. My observation over the last several years, when trying to get information from the Department on how they made those judgments, we rarely get good answers; at periods of time, no answers; and at other times, very ineffective answers. I have no problem with whatever the judgment of the Congress is in adjusting the minimum grant that goes to particular States. However, I think when we assume that this Department has the capacity to make risk judgments on allocating funds to all 57 States and territories, I think we overestimate their capacity to make such judgments.

They have made mistakes in the past, and I just do not think they have developed the needed expertise to make the kinds of judgments we are assuming they can. If they had that capacity, then I think we might be headed in the right direction; but there is no evidence that they have that capacity today.

In conclusion, however, I must say that I think we must measure this homeland security bill by asking whether the bill helps close the gaps that exist today. I think the bill does that. I think it makes substantial improvements in how the Department would operate, and I am proud to support the bill as it stands today.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the distinguished ranking Democrat on the Committee on Appropriations, the gentleman from Wisconsin (Mr. OBEY).

□ 1215

Mr. OBEY. Mr. Chairman, there are two problems that we face in dealing with this bill. The first is that we have an agency which is essentially incompetent and dysfunctional. We are trying to protect the Nation's security by working through an agency which is gargantuan, which is bureaucratic, to say the least, which is filled with inertia, and filled with people working at cross purposes. Outside of that it does a terrific job.

And the chairman and the ranking member of the subcommittee have tried to do their dead level best to provide the kind of Congressional oversight that is necessary if you are going to help bring this agency out of its troubles and put that agency in a posture where it can be a trusted repository of the responsibilities that we have given to it.

The second problem we have is that we still have not faced up to the need. Even though the agency which we must go through in order to deal with this problem is a mess, we still have not faced up to the fact that we need more resources.

We still only inspect a tiny percentage of the container cargo which comes into this country every day. We still inspect an infinitesimal percentage of cargo on passenger airplanes. Mr. SABO has focused on that issue many times.

We, despite all of our posturing, and despite every Member of Congress who

has gone on the Lou Dobbs Show and talked about the need to secure our borders, we still are incredibly short in terms of the number of border guards, in terms of the number of immigration inspectors. And then, in addition to that, the Congress on the supplemental appropriation bill added an entirely extraneous provision which set up this new complicated, convoluted Rube Goldberg operation that every citizen is going to have to go through in order to renew their driver's license.

And the cost of that program is indeterminate, but we are being told by the Congressional Budget Office that it will cost at least $100 million, which will be laid onto State and local governments. We are told by the National Council of State Legislative Leaders that it will cost about $500 million, and we have laid that responsibility on State and local governments.

So, Mr. Chairman, it seems to me that even with our doubts about the agency there are certain functions that we ought to be providing more money for unless we are determined to create yet another unfunded mandate. The committee has not been able to provide additional money, not because of any defect in the committee but for one simple reason: This House has decided to make as a higher priority providing very large tax cuts for the next 10 years, and a huge percentage of those tax cuts have gone to the most blessed persons in this society. Let me put it that way.

The reality is that if you make over a million dollars this year, you could expect, on average, to get a $140,000 tax cut. We could plug all of the holes I have just mentioned in our homeland security activities if we simply limited that $140,000 average tax cut to $138,000.

And that is what the amendment would do that I intend to offer at a later point in the proceedings. The Rules Committee did not make that amendment in order, while they did make in order, or they did make it possible for any single Member to walk onto this floor and wipe out 15 pages of this bill that provide needed resources for numerous security activities.

So we are in the situation where the Rules Committee has precluded me from offering an amendment which can be voted on by the entire body, and yet the Rules Committee has said we are going to allow a single Member from a committee that has never produced a bill that has gone into law, we are going to allow them to walk in here and shred this bill.

That makes no sense to me. So I just think the Rules Committee has failed in its stewardship responsibility, and I think we are failing our responsibilities to our constituents if we do not provide more resources than this bill provides.

Having said that, I want to congratulate the gentleman from Kentucky (Mr. ROGERS) for doing the best job that he could under the circumstances. I had intended to vote for this bill until they took it and shredded it. Whether I will vote for it in the end will be determined by just how irresponsible people are when they come to the floor and knock out provisions of this bill just because their committee did not happen to think of them.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield such time as he may consume to the very distinguished and very able chairman of our full committee, the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, I very much appreciate my chairman, the gentleman from Kentucky (Mr. ROGERS), for yielding me whatever time I might consume. I really rise because I want the House to know that this bill is perhaps one of the most positive reflections of what our Appropriations Committee can do at the subcommittee level when we work in a very professional and highly nonpartisan manner to address major problems that face our country.

The question of homeland security and the need for expanding effectively our work in this arena is obvious. Both the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS) have done a fabulous job of working together.

The staffs are not just outstanding, they have produced a product of which we can all be proud. Indeed, as we go through the process today it is conceivable this product may change because of untoward circumstances. But I must say in the arena that involves homeland security we do have a new authorizing committee that has been put together. They have yet to produce their first product this year, but they are working diligently to try to move in that direction.

It is our desire to help them be successful. And over time I am certain that we will be able to help them be successful. If money has anything to do with this process we hope to have a very positive influence.

In turn, the bill as it is currently formed is being used effectively for oversight. We all know that this department is something much different than an elephant or a hippopotamus or a donkey combined. It is the merging of some 22 agencies, an attempt to put together the homeland security department.

As we attempt to massage the process to make sure this agency can operate effectively, clearly the Appropriations Committee has a role to play. In their attempt to provide effective oversight, before oversight has been done by way of the authorizing committee, for they have not had a chance to do that yet, it is very important that dollar pressure get the attention of this organization.

Let me just mention one area in the area of the Coast Guard's work, in the Deepwater arena. Preceding 9/11 they were on a plan for working and developing their responsibilities in Deepwater efforts. Subsequent to 9/11, the chairman has been pushing them to move in the direction of remodeling their plan to reflect this new world that we are living in.

And the chairman has worked, by way of language in past bills, he has worked by communication with the leadership of the new agency, he has done everything he can to have them be responsive to a plan that is not just a 5-year, but a 20-year plan that tells us where these sizeable number of dollars are going to be spent to impact that piece of our security.

And indeed the lack of response from the Coast Guard is astonishing to me. I mean, indeed, you would think perhaps that this subcommittee did not exist because they presume that money for them would be automatic around this place.

Well, the Chairman has done a great job of trying to send a message that says, we expect you to have a real world plan that reflects post-9/11 realities. And that language is important to our ability to provide oversight in the months that are just ahead.

I would hope that all of us working together would recognize that sometimes you use the vehicle that is available to have oversight that will impact an agency whose attention we absolutely must get. Otherwise we could waste not just 6 months or a year, we could waste 2 or 3 years while we are getting our act together.

Indeed, let me return to my original point; that is, this subcommittee has done a fabulous job. If you will just read this bill and look at the care that has been taken in every section, staffs on both sides of the aisle indeed should be applauded for their effort at causing both the gentleman from Minnesota (Mr. SABO) and my colleague, the gentleman from Kentucky (Mr. ROGERS), for doing a fabulous job on behalf of our Nation's security.

Mr. SABO. Mr. Chairman, I am pleased to yield 3 minutes to a distinguished member of our subcommittee, the gentleman from New York (Mr. SERRANO).

(Mr. SERRANO asked and was given permission to revise and extend his remarks.)

Mr. SERRANO. Mr. Chairman, I thank the gentleman from Minnesota (Mr. SABO) for yielding me this time.

Mr. Chairman, first off I would like to compliment the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), for their hard work on this bill.

The bill's top line total is $1.3 billion, or 4 percent above the President's request, and $1.7 billion, nearly 6 percent above this year's enacted level. The bill achieves these numbers without conceding to the President's request to increase the Federal security surcharge on airline tickets by $3.

Mr. Chairman, I want to strongly state my support for the efforts of the gentleman from Kentucky (Chairman ROGERS) in this bill to ensure accountability, which is long overdue. I understand that the top management at DHS

has had a very difficult management task on their plate from day 1, pulling together all of these different agencies and making sure that they play and work well together.

I believe, however, that these challenges are cause for more, not less oversight on the part of the Congress. After September 11, Congress voted to grant the Department of Homeland Security a broad scope of authorities. This means that if managed properly, the Department is uniquely positioned to protect us from terrorism.

On the other hand, if managed improperly, it is also uniquely positioned to do great harm. For instance, since the PATRIOT Act and the Homeland Security Act, I, along with many others in this body, have spoken out constantly on the need for our antiterrorist agencies to safeguard our constitutional rights and civil liberties.

Mr Chairman, I believe that if in the process of getting the bad guys we step and throw away the Constitution, eventually it is the terrorists who would have won the battle. Congress is the most essential body for protecting Americans from these types of excesses and missteps by the Department.

Furthermore, the American people have also charged us with ensuring that every dollar that the government spends, especially on something like homeland security, is spent in a way that yields the most benefit. The most significant way that we in Congress carry out this vital task is by controlling the way the money is spent, and that is what the gentleman from Kentucky (Chairman ROGERS) has spoken to for so many times with the support of the gentleman from Minnesota (Mr. SABO).

We cannot just open up this new part of our funding, if you will, in this Congress and dole out all of these dollars without having some accountability. The gentleman from Minnesota (Mr. SABO) and especially the gentleman from Kentucky (Chairman ROGERS) well understand that this is not our personal money, this is the taxpayers' dollars, and the taxpayers complain a lot about how we spend the money. This time we have a new department, new agency, new spending sources, new funding levels, and we can from day 1 try to pull the strings in and have some control.

So I would hope that today, during this debate, those who may be officially or personally offended about how some things happen around here understand that there is a greater task; that is, the protection of the people and the protection of the taxpayer.

First off, I would like to commend Chairman ROGERS and Ranking Member SABO for their hard work on this bill.

The bill's top line total is $1.3 billion (4 percent) above the president's request and $1.7 billion (nearly 6 percent) above this year's enacted level.

The bill achieves these numbers without conceding to the President's request to increase the federal security surcharge on airline tickets by $3.

I am strongly supportive of Chairman ROGERS' efforts in this bill to ensure accountability at DHS, which is long overdue.

I understand that the top management of DHS has had a difficult management task on their plate from day one: pulling together all these agencies and making sure that they play well together.

I believe, however, that these challenges are cause for more—not less—oversight on the part of this Congress.

After Sept. 11, Congress voted to grant the Department of Homeland Security a broad scope of authorities. This means that, if managed properly, the Department is uniquely positioned to protect us from terrorism. On the other hand, if managed improperly, it is also uniquely positioned to do great harm.

For instance, since the Patriot Act and the Homeland Security Act, I, along with many others in this body, have spoken out constantly on the need for our antiterrorist agencies to safeguard our Constitutional rights and civil liberties.

Congress is the most essential body for protecting Americans from these types of excesses and missteps by the Department.

Furthermore, the American people have also charged us with ensuring that every dollar that the government spends—especially on something like Homeland Security—is spent in a way that yields the most benefit.

The most significant way that we in Congress carry out this vital task is by controlling the way money is spent—and, if necessary, denying the Administration requests if they are unable or unwilling to respond to our concerns.

Chairman ROGERS recognized this point when he built accountability into this bill.

I would also like to take a moment to highlight some of the funding levels in the bill that I believe are inadequate.

I understand that when it comes to something like our safety and security from terrorist attacks, any final amount of funding means that tough choices must be made.

One important area that suffers a severe cut in this bill, however, is funding to our state and local programs, which the bill reduces by 11 percent from this year.

The Administration and many on our committee have noted that this cut is in response to the sluggish pace at which the Department and states move these funds out to local agencies, so that they can be spent.

But I don't believe that slashing funding for these essential programs is the right approach to making them work better.

These state and local governments are on the front lines in our struggle against terrorism, and still have many needs that are going unmet.

Most notably, fire grants, which, as the Ranking Member notes, are the most successful grant program at DHS are reduced by $115 million from current levels—16 percent—even as we are finding that our firefighters are still largely unprepared to respond to catastrophic terrorist acts.

In addition, State homeland security formula grants, local law enforcement terrorism prevention grants, and urban area security grants, all of which are especially important to my district and other high risk areas, are reduced by 14 percent.

As the bill moves to Conference, I am hopeful that we can find a way to address some of these deficiencies, and I look forward to working with the Chairman and Ranking Member on these issues.

In closing, I believe overall that this is a good start to tackling many of the problems that have plagued the Department from its inception, and I urge all my colleagues to support it.

□ 1230

Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina (Mr. PRICE), another distinguished member of our subcommittee.

Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman from Minnesota (Mr. SABO) has 15½ minutes remaining.

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Chairman, I am grateful to my colleagues, the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO), for their conscientious and cooperative efforts in writing this bill.

The bill would provide much-needed additional funding to protect our borders. It would also boost the Department of Homeland Security's efforts to track down potential terrorists and criminal aliens that are already in this country.

It would shorten the backlog for people seeking to legally live in this country as permanent residents or citizens. It would help protect our ports and our chemical and nuclear facilities. And as the gentleman from New York (Mr. SERRANO), my colleague, just stressed, it focuses on accountability, much-needed accountability, at the Department, and I commend the gentleman from Kentucky (Mr. ROGERS) in particular for that.

Given the limited funds the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) had to start with, theirs was not an easy or enviable task, and they have done an exceptional job with the poor hand they were dealt. But I have said this before and I will say it again: we can do better. This bill could and should be better. We would do better if we made better budget choices at the front end of this process.

This vote today is not occurring in a vacuum. During recent funding debates, we have heard the Republican leaders say over and over, there simply are no funds available to provide what

is needed. I suspect we are going to hear that again today.

What we do not hear as often is that since 9/11, we have spent 20 times as much on tax cuts, mainly benefiting the wealthiest people in this country, as we have on protecting the American people from terrorist attacks. Just the other week, we passed another tax cut that will only benefit people inheriting estates that are worth millions of dollars.

So we go over the cliff fiscally, and our Republican friends try to pin the blame on discretionary domestic spending, including spending for security. We pass budget resolutions that fall far short, so that by the time we try to write appropriations bills within the limits in these resolutions, we have nothing left to talk about. All we can do is lamely speak of the things we just are not able to do, in this bill and other bills, because we do not have the funds.

Well, we chose not to have the funds. To name one conspicuous example, for the second year in a row, we are going to cut the Fire grant program, one of the most successful Federal programs we have.

Despite the fact that a recent FEMA study showed that two-thirds of our fire departments operate with staffing levels that do not meet the minimum safe staffing levels required by OSHA and the National Fire Protection Association, we are again under-funding the SAFER program, which assists understaffed departments in hiring additional personnel.

Mr. Chairman, we pass bills authorizing first-responder support, but when it comes time to pay for these programs, we would rather put the country's money toward tax breaks for the wealthy than for police officers who are protecting our communities. Trillion-dollar tax cuts get rammed through this Congress, but in this bill, the leadership says we have ''no choice'' but to cut State block grants by 14 percent.

Today, our choices are indeed limited, although I am hopeful we can make some improvements at the margins, for example, by passing the gentleman from Minnesota's (Mr. SABO) first responder amendment.

At the end of the day, we should pass this bill, and I am hopeful that colleagues on both sides of the aisle will support it. But we should understand why this bill, despite our subcommittee's best efforts, does fall short. We should resolve to fix this country's budget policy so that at long last our Nation's people and their security can come first.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, let me thank the gentleman from Minnesota for yielding me time, for his leadership, and also to the gentleman from Kentucky (Chairman ROGERS) for his diligence, hard work, and leadership in bringing this bill to the floor.

Mr. Chairman, last month the port of Oakland in my district in California became the very first port in the Nation to fully install radiation portal monitors at every one of its international marine terminals. That means that every single container exiting the port of Oakland will be screened for nuclear weapons. As the fourth largest port in the Nation, that is almost 700,000 screened containers a year.

While Oakland can detect and prevent the entry of nuclear weapons into our country now, other ports around the Nation, unfortunately, cannot. We know that terrorist organizations are actively seeking nuclear weapons; but under this bill, our Nation's ports would not be fully equipped with radiation portal monitors until 2009. That is unacceptable.

The fact is this administration has consistently underfunded port security for years. The Coast Guard estimated in 2002 that we needed $7 billion for port security. In the last 4 years, Congress has only provided about $737 million, and this bill would add a meager $150 million.

So, Mr. Chairman, we cannot wait until a real attack occurs, and we need more money for port security now. So I hope that we make this commitment today as this bill moves forward.

Mr. SABO. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Minnesota for the time.

I thank the chairman of the subcommittee and as well the chairman and ranking member of the full committee. If there is ever a challenge, Mr. Chairman, it is a challenge of trying to get one's hands around the massiveness of homeland security.

I think if we have ever realized the importance of the work of the subcommittee on appropriations, and also the authorizing committee, it was last Wednesday, just less than a week ago, when masses of people in this area were told to evacuate and Members of Congress were seen fleeing, as others stood by watching them.

We have, if you will, a crisis more or less in the way that we handle homeland security issues, and the focus in terms of resources could not be more important and could not be more immediate.

First of all, I would like to acknowledge the dollars that are in this particular legislation dealing with Customs and border protection and immigration and Customs enforcement. I would like to see more. I do believe that the lack of dollars in the Fire grants is something that we need to improve.

What I would like to focus on, in particular, is the need to, one, I hope over time eliminate aspects of the REAL ID bill but to emphasize that it is seemingly unwieldy to suggest that States have to implement the REAL ID bill with a national ID card and no dollars, and I believe that this bill falls short of the amount of money needed to implement the REAL ID bill.

Then look at those of us who are border States, Texas, California, Mexico and Arizona, facing the likes of the Minutemen. On May 1, the Houston Chronicle said that the Minutemen are headed for Texas. We are patriots but we can handle our own business, but the Federal Government needs to handle immigration business.

I believe that we need more resources at the border for Customs and border patrol protection agents, more dollars for enforcement technology, more dollars to be able to protect the border, more dollars to ward off inappropriate, unauthorized militia on our borders. The reason why Americans are taking up immigration in their own hands is because we have failed them.

Mr. Chairman, we need enforcement with respect to employer sanctions. We need enforcement with respect to promoting American jobs. We need enforcement as it relates to protecting our borders, north and south; and yes, Mr. Chairman, we need comprehensive immigration reform.

I have introduced the Save America Comprehensive Immigration Act of 2005, which has to do with reuniting families, legalization for long-time residents, protecting women against violence and the border protection, as well as dealing with American jobs. I hope that we will have an opportunity in appropriations and authorization to look at immigration reform.

Mr. NUSSLE. Mr. Chairman, I rise to speak on the appropriations process for fiscal year 2006 and the Department of Homeland Security appropriations bill in particular. This is the first appropriations bill to be considered under the fiscal year 2006 budget resolution. The bill also provides for what we all agree is one of our Nation's highest priorities: protecting Americans at home.

The budget resolution provides a total allocation for discretionary appropriations of $843 billion in fiscal year 2006. This represents a 0.8 percent reduction for fiscal year 2006 in total non-defense, non-homeland security spending. I recognize the challenge this poses to the Appropriations Committee.

With respect to H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006, this is the first appropriations bill we are considering for fiscal year 2006, and the first to be reported by the Homeland Security subcommittee of the restructured Appropriations Committee.

I am pleased to report that it is consistent with the levels established in H. Con. Res. 95, the House concurrent resolution on the budget for fiscal year 2006, which Congress adopted as its fiscal blueprint on April 28.

H.R. 2360 provides $30.8 billion in appropriations for the Department of Homeland Security for fiscal year 2006, which is $1.1 billion below the fiscal year 2005 level. Excluding the $2.5 billion in one-time appropriations provided in fiscal year 2005 for Project BioShield, the bill actually represents a $1.4 billion, or 4.7 percent, increase in budget authority above

last year's level and is $1.3 billion above the President's fiscal year 2006 request.

The bill provides increases in border protection, immigration enforcement, first responders, transportation security, and science and technology broadly consistent with the President's request, but exceeds it largely because of the rejection of the Administration's proposed $1.7 billion increase in aviation security fees for the Transportation Security Administration. The bill's funding level is partly offset by slowing spending for the replacement of the Coast Guard fleet and by a reduction in non-defense, non-homeland security spending. With total fiscal year 2006 appropriations equal to its allocation, the bill conforms with the budget resolution.

H.R. 2360 does not contain any emergency-designated BA, which is exempt from budget limits. The bill contains one rescission of $84 million in previously enacted discretionary BA for the Coast Guard; the same amount is appropriated for replacement or maintenance of the current patrol boat fleet.

The bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an Appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

As we enter the appropriations season, I wish Chairman LEWIS and our colleagues on the Appropriations Committee the best as they strive to meet the needs of the American public within the framework established by the budget resolution.

In conclusion, I express my support for H.R. 2360.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of the FY 2006 Homeland Security Appropriations bill. This is not a perfect bill, but it provides much needed funds to make our country safer.

Total funding in the bill is increased from this year's levels, with significant increases over the requested levels for immigration and for customs enforcement and border protection. Funding for port, transit and aviation security is also much improved over the president's budget request.

Still, I'm concerned about shortfalls in the bill. It cuts fire grants by 16 percent, even as a recent survey found that fire departments all over the country are not prepared to respond to a haz-mat incident and lack equipment. The bill cuts State homeland security formula grants, local law enforcement terrorism prevention grants, and urban area security grants by 14 percent. The bill does provide additional funding for border patrol, but the number of agents still falls 500 short of the 2,000 called for in the Intelligence Reform bill. Since September 11, just 965 additional border patrol agents have been hired—less than a 10 percent increase in 4 years.

I am pleased that the House adopted an amendment offered by Mr. OBEY of Wisconsin to provide funding to help States comply with the REAL ID Act. Estimates are that complying with the Act will cost the States between $100 million and $500 million over the next 4 years. Since the majority saw fit to push the REAL ID provisions through Congress, it is important that Congress also provides funding to do the job.

I opposed the amendment offered by Mr. TANCREDO which would block any Homeland Security funding from going to State and local governments if their law enforcement is prohibited from reporting immigration information to the Federal Government.

I believe that linking this provision to vital homeland security funds could have unintended consequences for our national security. Since 9/11, national security has become a national priority, and State and local governments play an essential role in assisting the Department of Homeland Security to improve the security in this country.

Under current law passed in 1996, it is already illegal for law enforcement to restrict the reporting of immigration information to the Federal Government. I support this law, and believe it should be fully enforced. The efforts of State and local governments to enhance our security should not be undermined because the Federal Government has not properly enforced immigration law.

We should be providing States with resources to improve security, not taking these resources away. By underfunding and allowing the weakening of security in some States and localities due to their lack of reporting illegal immigrants to immigration officials, the Federal Government would in effect be contributing to the weakening of our national security.

Mr. Chairman, much remains to be done to improve our defenses against terrorism, but this bill is an important step, and I will vote for it.

Mr. BLUMENAUER. Mr. Chairman, I rise in favor of this bill, which includes critically important funding for Oregon and the rest of the country.

I especially appreciate funding for prevention measures to reduce the damage done by floods and other natural disasters, and I would like to thank the Chairman and Ranking Member for fully funding the Flood Insurance Reform Act of 2004. The Act, which this House passed overwhelmingly last year, extends the authorization of the National Flood Insurance Program (NFIP) and provides new resources to address severe repetitive loss properties.

The Federal Emergency Management Agency (FEMA) reports that repetitively flooded properties, which make up just 1 percent of the insured properties, account for 25 percent of NFIP claims dollars. Mitigating these properties will not only keep people out of harm's way, but will also save other flood insurance program policyholders thousands of dollars.

Fully funding the program this year would allow us to move more than 1000 families out of harm's way. It will also save the Federal government millions of dollars in money that would otherwise be spent on flood damages and disaster relief. FEMA reports that mitigation and building standards already in place have resulted in over $1 billion annually in reduced flood losses.

I appreciate the strong support of Financial Services Chairman MIKE OXLEY, Ranking Member BARNEY FRANK, and their staff, who have worked tirelessly to ensure that the Flood Insurance Reform Act is implemented.

The Homeland Security bill also includes crucial local preparedness grants, which are an important part of the Federal government's responsibility to be a good partner to local communities. I am pleased that these grants will be distributed, after a state minimum guarantee, on the basis of risk, as the 9/11 Commission recommended.

However, I am disappointed that three and a half years after the terrorist attacks of September 11, our homeland security budget continues to under-fund some of our most pressing needs, from border security to infrastructure security to first responders. But this shortfall stems not from the appropriations bill, but from unfortunate budget choices and the resulting inadequate allocations.

Mr. SABO. Mr. Chairman, I have no further requests for time and I yield back my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I have no further requests for time as well, and I yield back.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $133,239,000: *Provided*, That not to exceed $40,000 shall be for official reception and representation expenses: *Provided further*, That of the amounts appropriated under this heading, $20,000,000 shall not be available for obligation until the Secretary of Homeland Security submits to the Committee on Appropriations of the House of Representatives an immigration enforcement strategy to reduce the number of undocumented aliens, based upon the latest United States Census Bureau data, by 10 percent per year: *Provided further*, That of the amounts appropriated under this heading, $10,000,000 shall not be available for obligation until section 525 of this Act is implemented: *Provided further*, That the Secretary shall submit all reports requested by the Committee on Appropriations of the House of Representatives for all agencies and components of the Department of Homeland Security, as identified in this Act and the House report accompanying this Act, by the dates specified: *Provided further*, That the content of all reports shall be in compliance with the direction and instructions included in this Act and the House report accompanying this Act by the dates specified: *Provided further*, That, of the amounts appropriated under this heading, $20,000,000 may not be obligated until the Committee on Appropriations of the House of Representatives has received all final reports in compliance with such direction and instructions.

AMENDMENT OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOSTETTLER:

Page 2, line 9, after the dollar amount, insert the following: ''(decreased by $500,000)''.

Page 4, line 2, after the dollar amount, insert the following: ''(decreased by $5,505,000)''.

Page 12, line 20, after the first dollar amount, insert the following: ''(increased by $193,200,000)''.

Page 16, line 5, after the dollar amount, insert the following: ''(decreased by $21,156,000)''.

Page 19, line 1, after the dollar amount, insert the following: ''(decreased by $47,500,000)''.

Page 34, line 19, after the dollar amount, insert the following: ''(decreased by $180,000,000)''.

Page 37, line 12, after the dollar amount, insert the following: ''(decreased by $60,000,000)''.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. The gentleman from Indiana (Mr. HOSTETTLER) is recognized for 5 minutes on his amendment.

Mr. HOSTETTLER. Mr. Chairman, this amendment is the combination of the three amendments I will offer today. It would supply funds for the shortfall of ICE agents, or Immigration and Customs Enforcement agents, border patrol agents and detention beds that have not yet been funded by this Congress. This shortfall occurs as a result of the difference between authorized levels due to last year's National Intelligence Reform Act and a combination of this year's appropriations bills, this appropriations bill and the recently passed supplemental.

Immigrations and Customs Enforcement is the agency tasked with enforcing immigration laws internally within the United States. It is critical that ICE, Immigrations and Customs Enforcement, receive the resources necessary to successfully complete its mission.

The 9/11 Commission recognized the great importance of adequately securing our Nation's borders against the potential threats. We must make up the shortfall in funding and provide funding for the additional 500 border patrol agents who have not yet been funded.

It is also critical that we have adequate detention bed space to house aliens that might otherwise never return for hearings or, worse, might commit crimes if not detained.

In conclusion, Mr. Chairman, I ask my colleagues to support this amendment to fully fund critical parts of homeland security and the Bureau of Border Protection, the Immigration and Customs Enforcement, as well as detention beds.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Kentucky insist upon his point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, there is plenty of money in this section of the bill. I think we have put all the money we can into that section, and it is ample.

Mr. Chairman, the amendment proposes to amend portions of the bill not yet read. The amendment proposes to increase the level of outlays in the bill, and I ask for a ruling from the Chair.

The CHAIRMAN. Does any Member wish to be heard on the point of order raised by the gentleman from Kentucky?

If not, to be considered en bloc, pursuant to clause 2(f) of rule XXI, an amendment must not propose to increase the levels of budget authority or outlays in the bill. Because the amendment offered by the gentleman from Indiana proposes a net increase in the level of outlays in the bill, as argued by the chairman of subcommittee on appropriations, it may not avail itself of clause 2(f) to address portions of the bill not yet read. The point of order that the amendment proposes to address portions of the bill not yet read is sustained.

□ 1245

AMENDMENT NO. 9 OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. SOUDER:

Page 2, line 9, after ''$133,239,000'' insert '', of which $6,000,000 shall be for the Office of Counternarcotics Enforcement to carry out its responsibilities under section 878 of the Homeland Security Act of 2002, as amended''.

Mr. SOUDER. Mr. Chairman, I rise to urge my colleagues to adopt this amendment, which would ensure adequate funding for the Office of Counternarcotics Enforcement at the Department of Homeland Security. The office was created by Congress in December of 2004 as part of the 9/11 intelligence reform legislation. It is fully authorized but, to date, has not received sufficient funds to enable it to carry out its mission of overseeing and coordinating DHS' antidrug trafficking efforts.

DHS is the largest single drug enforcement entity in the Federal Government, combining the legacy Customs Service, the Coast Guard, and the Border Patrol. For this reason, Congress specifically made drug interdiction one of its primary responsibilities. Congress has also created the position of Counternarcotics Officer, CNO, in 2002, to oversee drug interdiction activity and facilitate coordination and cooperation within the Department.

Regrettably, the original CNO position did not have the resources or the status necessary to be effective. During a hearing held by the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, which I chair, we learned that CNO was a detailee from the Drug Czar's office without a dedicated staff or budget.

To remedy this problem, Congress replaced the CNO position with the Office of Counternarcotics Enforcement. The office is responsible for analyzing and reporting to Congress on the Department's annual counterdrug budget request, for reporting to Congress on the results and effectiveness of DHS counterdrug operations, and for ensuring the coordination of the Department's counterdrug efforts both internally and with other departments.

Although Congress authorized $6 million for the office out of the Department's appropriation for departmental management and operations, the administration failed to request any funds for it. The amendment specifically designates $6 million for the office out of the overall appropriation for the Office of the Secretary and for executive management of the Department.

In closing, I would like to thank the gentleman from California (Mr. LEWIS), chairman of the full committee; and the gentleman from Kentucky (Mr. ROGERS), chairman of the subcommittee, for bringing this vital legislation before the House. But once again I would like to make it absolutely clear that this does not increase any dollars in the Homeland Security budget. It merely requests, again, that dollars we have authorized be set aside inside this department.

This department has been opposed by the administration before. In the original creation of the Department of Homeland Security, the administration opposed the creation of the Office of Counternarcotics. This House spoke clearly, as did the other body, and the gentleman from Illinois (Mr. HASTERT), the Speaker himself, led this being inserted in the bill, but the administration ignored our request. So when we went back to the 9/11 report, this House again changed and added more duties and staff to this office. The other body agreed with us, but the administration opposed this.

The administration has steadfastly opposed narcotics, of which most of the divisions of the Department of Homeland Security work in, yet they have steadfastly opposed making this office anything but superficially irrelevant. They have not allowed the director of it, the current director was first funded by the ONDCP, now he is funded by TSA. He has all detailees in his office, or interns. The minimal budget is at the begging from the Chief of Staff to fund their office.

We need a set-aside office. This body and the other body have spoken in both major bills. It needs to be funded. The administration continues to be negligent in the area of narcotics. They proposed wiping out Byrne grants, they proposed wiping out HIDTA, they proposed getting rid of meth hotspots, and once again they are after the narcotics budget.

The number one crime problem in America is related to narcotics, and it is about time this administration understood that problem. We need to continue to speak out in Congress, because across the board they have been opposing this, and this may be our only chance to go on record to show that we

want this administration to be more aggressive in counternarcotics.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment, and I rise reluctantly in opposition to the gentleman's amendment that would earmark $6 million for the Office of Counternarcotics Enforcement and the U.S. Interdiction Coordinator out of funds provided for the Office of the Secretary and executive management.

Mr. Chairman, the Department currently has eight people working on counternarcotics issues. In the past 2 years, we funded $1.86 million for that activity. That is almost half the funding provided for the Chief of Staff of the Department, where the counternarcotics staff are located. A $6 million earmark for counternarcotics would have the effect of zeroing out all funding for all other activities funded within the Chief of Staff's office, including the development of budget and information technology policies for the secretary.

In fact, this amendment would require additional reductions in the Chief of Staff's office to fund this work. These reductions would mean that the Secretary would hire fewer security staff to focus on classified and security-sensitive issues within the Department, reduce support for the privacy office, or perhaps eliminate most of the newly proposed Office of Policy and also prohibit the hiring of new staff requested in the 2006 budget.

There is no real clear justification why this office should basically triple in one fiscal year from less than $2 million to $6 million, or what the appropriate size of the office should be, particularly when they have not even filled all the funded positions they have.

While I support the counterdrug mission of the Department, and in fact wish that the Chief Counternarcotics Officer would take a more prominent role in resolving longstanding issues of interagency coordination of drug interdiction, we cannot appropriate funds without knowing what those funds will be paying for. We just do not write blank checks in this subcommittee. I respect the gentleman's amendment and his intent.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, my amendment does not specify that it comes from the Chief of Staff's office, was it? That was not my impression. Because it is in the section of the bill that relates to the Chief of Staff?

Mr. ROGERS of Kentucky. Reclaiming my time, that is correct, and this is where the staff is now located. So it would have to come out of the Chief of Staff's operating budget.

Mr. SOUDER. Mr. Chairman, if the gentleman will once again yield, I question whether it has to come out of the Chief of Staff's budget, because it was supposed to be a separate Director of Narcotics. I think the Department of Homeland Security has chosen to fund it through the Chief of Staff's office, which is not necessarily binding. But I would be happy to work with the gentleman in conference to see if we can come up with a figure.

Mr. ROGERS of Kentucky. Perhaps the gentleman can withdraw the amendment and we will have a chance to work on it further.

Mr. SOUDER. If the chairman will agree to work with leadership and with the Speaker's Drug Task Force, which has supported this, I will withdraw the amendment on the grounds that the chairman will continue to work with me as we move to conference.

Mr. ROGERS of Kentucky. I will be happy to work with the gentleman. He has been a very diligent Member of this body, and I appreciate the information he is providing to us now. We will work with the gentleman to try to get at the problem he describes here.

Mr. SOUDER. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

The CHAIRMAN. Hearing none, the amendment is withdrawn.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 2, line 9, after the dollar amount, insert the following: ''(reduced by $15,000,000)''.

Page 37, line 12, after the dollar amount, insert the following: ''(increased by $15,000,000)''.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentlewoman's amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I hope the distinguished chairman will acknowledge that we believe this is revenue neutral. This amendment is offset by the account out of the Secretary's office and it is not legislating on an appropriation bill, but it is addressing a need that is overwhelming in our offices and throughout America.

If our message to America is that we believe in legalization and we believe in the legal access to immigration, or to legalization, meaning that we want people to come into the United States legally and to secure legal status, then we are doing everything wrong to encourage that proposition.

We know that this country is a land of immigrants and a land of laws, and through the decades, through the centuries immigrants have come first through the Atlantic, through the Statue of Liberty, through Ellis Island, seeking opportunity and seeking legalization. And, Mr. Chairman, we have allowed that to happen. We have had processes in place that would work toward, not against those processes occurring.

Today, ask any Member of Congress what is the largest caseload they have in their office, and it is regarding immigration benefits and access to citizenship. Not illegal access, but legal access. When we look at the documentation we find that there is a steadily increasing number of individuals seeking legal immigrant status. In the years 2001, 7.8 million, 2002, 7.7 million, 2003, 7.1 million. At the same time, we find that there is a lack of access to real immigration rights because we are backlogged.

There is an enormous backlog, even though there are no numerical limits, as reported in this chart, no numerical limits on the admission of aliens who are immediate relatives of U.S. citizens. Such citizens petitioning for their relatives are waiting almost a year, almost a year, and in some parts of the country almost 2 years for the paperwork to be processed.

Citizens and other legal permanent residents petitioning for other nonimmediate relatives under family preferences are often waiting several years for the petition to be processed.

This is a crisis, colleagues. We are working against our own philosophies and policies, which is to encourage legal immigration. Right now you can ask any Member of Congress whether they have an elderly constituent who is attempting to beat the clock of life.

Right now in my own office there is a gentleman who loves this country, in his 80s, and he has been trying to become a citizen through legal ways for almost a decade. Right now he is ailing. His family calls me every day. The reason his petition is taking so long is because we are backlogged and cannot seem to get a simple process of fingerprints and documentation together at once.

The additional $15 million in this amendment will help us in funding the hiring, clearance processes, training, office equipment, and support services for 300 additional full-time CIS adjudicators. The Sensenbrenner-Conyers substitute amended the immigration section 102 in a committee hearing for the immigration customs enforcement legal program for the hiring of an additional 300 attorneys and related training and support cost. This amendment, that I join together with the gentleman from Michigan (Mr. CONYERS) in, likewise adds this amount of attorneys and adjudicators into this process to help us along.

The President supports reducing the lengthy backlog of immigration application processing as an important policy objective. Lengthy backlog and interminable processing delays are a disservice to the needs of businesses, keeps families needlessly separated, and undermines the integrity of the system. There is a bipartisan agreement that the Department of Homeland Security must catch up on the backlog it inherited from the INS. The former head of the immigration services, Eduardo Geary, in our own Subcommittee on Immigration and Claims,

submitted a proposal to end the backlog.

Work has been done, but more work has to be done. The report language for this bill earmarks $120 million for this purpose but it fails to add money where it is needed most by increasing the number of adjudicators who can process the backlogged applications.

Mr. Chairman, I believe this is a bipartisan amendment, as shown in the bipartisan effort of the work done by both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS). Together, the gentleman from Michigan (Mr. CONYERS) and myself now offer these additional dollars and focus on the need for adjudicators and on the need to help with backlog applicants.

Remember what I said. The numbers are increasing every single day and the backlog is increasing every single day. Citizens and LPRs, legal permanent residents, petitioning for nonimmediate relatives under the family preferences are waiting now several years. Mr. Chairman, we can do better. How can we do better? By supporting the Jackson-Lee/Conyers amendment.

For every single Member in this body who has a backlog in their office of those trying to do the right thing, this is the Homeland Security appropriation and what we need to do is understand immigration and fight terrorism. So I ask my colleagues to support my amendment.

□ 1300

POINT OF ORDER

Mr. ROGERS of Kentucky. Mr. Chairman, I rise to state a point of order and in opposition to the amendment.

The CHAIRMAN. The gentleman from Kentucky is recognized on his point of order.

Mr. ROGERS of Kentucky. Mr. Chairman, the proposal will likely cause an overage on outlays, and so the amendment proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

The CHAIRMAN. Are there Members desiring to be heard on the point of order?

Ms. JACKSON-LEE of Texas. Mr. Chairman, first of all, I need a clarification. The amendment is on page 2 line 9, and the offset comes on page 37 line 12. I do not understand what the objection is to the amendment in terms of out of order. I seek a clarification. What is the objection?

Mr. ROGERS of Kentucky. Mr. Chairman, I will read it again to the gentlewoman.

The amendment proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me just say I would hope that the chairman would be willing to waive the point of order. I consider this amendment so important that I will withdraw the amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment without prejudice at this time.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas that the amendment be withdrawn?

There was no objection.

AMENDMENT NO. 7 OFFERED BY MR. LOBIONDO

Mr. LOBIONDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. LOBIONDO:

In title I, in the item relating to ''OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT'', after the first dollar amount, insert the following: ''(reduced by $130,000,000)''.

In title I, in the item relating to ''OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT'', after the first dollar amount, insert the following: ''(reduced by $130,000,000)''.

In title I, in the item relating to ''OFFICE OF THE CHIEF FINANCIAL OFFICER'', after the dollar amount, insert the following: ''(reduced by $16,000,000)''.

In title I, in the item relating to ''OFFICE OF THE CHIEF INFORMATION OFFICER'', after the first dollar amount, insert the following: ''(reduced by $190,000,000)''.

In title II, in the item relating to ''UNITED STATES COAST GUARD-ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS'', after the first dollar amount, insert the following: ''(increased by $466,000,000)''.

Mr. LOBIONDO. Mr. Chairman, the amendment I offer today with my colleague and friend, the gentleman from Massachusetts (Mr. DELAHUNT), would restore the $466 million cut to the Coast Guard's Integrated Deepwater System. I know the gentleman from Kentucky (Chairman ROGERS) strongly supports the Coast Guard; and while I disagree with his decision to cut Deepwater, I understand why the gentleman felt the need to do it.

In light of the post-9/11 capability requirement changes, the gentleman from Kentucky (Mr. ROGERS) asked for a comprehensive implementation plan for the entire life of the program. As the Chair of the Coast Guard authorizing subcommittee, I have also requested the exact same information. Unfortunately, to date, neither the gentleman from Kentucky (Mr. ROGERS) nor I have received the information requested. I would say to the Coast Guard, to the Department of OMB, provide Congress with this information and do it now. No more excuses, just do it now.

If the administration continues to ignore this request, the Deepwater program will be devastated. At $500 million, Deepwater will likely take over 40 years to complete instead of the original 20-year estimation. Thousands of jobs would be lost in a number of States. The total cost to the taxpayer would actually increase substantially because of the delays; and the delivery of the new, more capable vessels, aircraft and communications equipment will be delayed indefinitely.

Specifically, this cut in funding would likely stop all work on the national security cutter affecting jobs in Mississippi. The break in production would negatively impact the already-troubled shipbuilding industry. It would also defer design work on offshore patrol cutters and the fast response cutter, again affecting jobs in Mississippi, would stop work on the vertical takeoff unmanned aerial vehicle, and this affects jobs in Texas. It will scale back the mission effectiveness program of the 210- and 270-foot cutters, which is intended to keep these legacy assets afloat and operational. This will affect jobs in Maryland.

Also, Mr. Chairman, it will affect the operation tempos significantly, placing a tremendous strain on the service's aging legacy assets that are doing the job now.

In fiscal year 2004, the United States Coast Guard lost over 700 patrol days due to failing legacy assets. Last year, the cutter fleet operated free of major casualty less than 50 percent of the time. Last year, the service's fleet of C–130, HU–25, and HH–60 aircraft all failed to meet target levels for readiness. And last year, the Coast Guard's main rescue helicopter experienced inflight engine failures at a rates of 329 mishaps per 1,000 hours of flight.

All of these issues are putting our men and women in uniform in grave danger and jeopardizing our homeland security mission. The GAO testified before my subcommittee that legacy assets are insufficient to meet mission demands and the need to replace or upgrade deteriorating legacy assets is considerable. The Coast Guard commandant calls it a readiness gap or downward readiness spiral.

Whatever we call it, the fact remains without new and better-equipped assets promised under Deepwater, the Coast Guard will not be able to successfully conduct its homeland security and other vital missions. Delaying Deepwater is bad for homeland security. It is also bad news for the budget. Continuing to defer acquisition of new assets causes the service to sink more and more money into rapidly deteriorating legacy assets just to keep them afloat.

The Coast Guard anticipated spending $20 million annually to keep legacy assets operational; but in 2006 the service expects to spend more than 12 times that much, and that does not take into account the nearly $60 million it will cost to replace the wing boxes on several of the C–130s or the $63 million in other unfunded legacy sustainment priorities.

In order to control costs, we need to invest in replacement assets. The new Deepwater assets will cost much less to maintain and will operate with fewer

servicemembers, saving millions in operating expenses and helping our homeland security mission. Deepwater will allow the service to push out the borders and effectively meet the demands of homeland security and other traditional missions.

I urge my colleagues to fully restore the Deepwater funding, and at the appropriate time I intend to withdraw my amendment and hope that the gentleman from Kentucky will have received the information requested from the administration, and work with us as the bill moves forward to restore these desperately needed dollars.

Mr. DELAHUNT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, imagine that your house is on fire, and the first thing you do is call 911; but the fire truck which was purchased during the Eisenhower administration gets a flat tire. The siren is not working, and then the hose springs a leak. Now you have lost your house, all of your possessions, and hopefully not your life.

Now imagine you are at sea. You call for help. The mayday call will be answered by the United States Coast Guard with ships and planes that are called legacy assets. Presumably that is a euphemism for old, really old. In fact, the Coast Guard operates the second oldest naval fleet in the world. The North Korean and Iranian naval fleets are in better shape than the United States Coast Guard.

Many so-called legacy assets are riddled with structural defects, putting Coast Guard personnel and people who call on them for help at risk, like the nine Coast Guard personnel who were aboard the 1942-era cutter Storis who nearly died when the davit lowering their lifeboat ripped away from the steel superstructure crashing them into the frigid Bering Sea. The rescuers literally became the rescued.

And remember last year, the Coast Guard's main search and rescue helicopter, the Jayhawk, experienced inflight engine failures at a rate of 329 per 100,000. The FAA acceptable standard is one per 100,000 flight hours. These failures limit the Jayhawk's ability to hover over, and place the lives of its crew and passengers and those below in danger.

The undisputable fact is that the demands on the Coast Guard have vastly outpaced its resources. I think we can all agree, there is no margin for era, particularly in this post-9/11 world, when the Coast Guard cannot escort an LNG tanker because the cutter's hull has fractured; when the parents of an overdosed teenager discover that the Coast Guard boats were not fast enough to interdict the drug smugglers; when family members of deceased fishermen discover that the Coast Guard could not have got there sooner because the helicopter had to turn around because of engine problems.

I sincerely appreciate the gentleman from Kentucky (Mr. MIKE ROGERS) and the Committee on Appropriations have been most patient in seeking the answers to the questions that they have posed, but I deeply regret we have come to the point where Congress feels it is necessary to threaten the future, the very existence, honestly, of the Coast Guard; and OMB and the administration should comply sooner rather than later with the request put forward by the chairman so we can put this matter behind us and meet our responsibilities to the brave Coast Guard personnel as well as the American people.

In the end, we should be looking for ways to speed up the Deepwater program and encourage the purchase of additional cutters and aircraft. What the service needs with its multiple missions and increasing responsibilities is not further reduction, but rather increases; increases, not of millions, but of billions, of dollars because it is that critical.

Unless we do not really care about patrolling ports, bridges and power plants, unless the 5,000 lives that the Coast Guard saves on an annual basis are now expendable, and we all know that is not true, that is not the case. But the reality is a crippled Coast Guard means lost property, lost commerce, and lost lives. We can do better.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first let me thank the gentleman from New Jersey (Mr. LOBIONDO) for bringing this important amendment to the floor. I think it is very important. I would also like to commend the Subcommittee on Homeland Security and the gentleman from Kentucky (Chairman ROGERS) for the great job he has done in doing his job as the chairman of this important subcommittee.

I would like to bring my perspective as the chairman of the Subcommittee on Terrorism and Unconventional Threat and Capabilities on the Committee on Armed Services. I like to look at the war on terror in three parts. We have the part that is taking the fight to the enemy. That is the armed services and the intelligence community. We have the job of gathering information both domestically and internationally in this very difficult war on terror. And third, we have the job, the task of securing the homeland.

□ 1315

We are talking about building block No. 3 today. This year, unfortunately, it has been found necessary for the fiscal year 2006 Homeland Security Appropriations bill to include $500 million for the Coast Guard's Integrated Deepwater System, cutting the program by $466 million below the President's request. I think this is a mistake. I do not think there is anything more important today, and I remember Ronald Reagan telling me when I was first elected to Congress 20 years ago that there are many things that the Congress does that are important, but nothing is more important than providing security to the American people.

Cutting nearly half of the funding will result in huge delays for Deepwater. This is simply unacceptable. If funding remains at this reduced level, it will add an additional 20 years to the program's completion. We cannot wait. This would serve a tough blow not only to this program but to taxpayers who ultimately have to fund the program over the long term.

Continuing to underfund the Deepwater program only puts off the acquisition of new replacement assets and further stresses already failing legacy systems. The gentleman from New Jersey went into some detail on that subject. With reduced resources, the service is forced to sink the majority of its funding into keeping legacy systems literally afloat and literally in the air.

Failure to fully fund the Deepwater program creates a readiness gap that we cannot afford to create. The Coast Guard performs countless critical missions to aid in the war on terror and we must not intentionally reduce or hamper their capabilities.

I understand that the gentleman from New Jersey is going to withdraw this and there will be pending considerations by the chairman of the committee. I thank both gentlemen for their effort in this regard.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the gentleman from New Jersey bringing this forward and I join with him and my colleague from Massachusetts in regretting that we are at this pass. I understand that the committee is not motivated by any animus against the Coast Guard or any failure to appreciate the need for what it does. While we are going to have this amendment withdrawn at this point, obviously we all fervently hope that the administration will come into compliance with the very reasonable request of the committee so that by the time this bill ultimately is signed into law it includes these necessary funds for the Coast Guard.

I represent the most prosperous fishing port in the United States, the city of New Bedford, town of Fairhaven. The value of the catch there is very significant. They make a significant contribution to the economy, the fishermen do. They also provide a very healthy source of food. At a time when we are worried about the health of what people eat, the health effects, we are worried about obesity, fishing is one source of about the healthiest food people can eat. Unlike most other foods, people do not often realize that the seafood that is brought to their table involves some risk of life. People do not get killed growing vegetables or even herding cattle, but people get killed fishing, particularly out in the deep sea. We have had tragic instances recently in the North Atlantic of these extraordinarily brave men losing their

lives not through their own fault but weather and other factors.

We need to do a lot to deal with that. We need to change regulations that give them incentives to be out at unsafe times. We need to do better training. We need a whole range of things. But no matter how hard we try to avoid accidents, given the nature of fishing, they will happen. Sadly, the Coast Guard today is not as well equipped as it can be and should be to deal with those accidents.

My colleague from Massachusetts alluded to a controversy over a failure of a helicopter at a time when someone needed a rescue. The Coast Guard maintains that it would not have made any difference. We do not know whether it did or did not, but even accepting their argument, we should not be having that debate. Families mourning the loss of a brave fisherman should not be further tormented by the possibility that it was a failure in our own government that led that to happen.

Having the Coast Guard do everything that it physically is capable of doing in these rescue situations is an essential part of an overall safety program, and obviously that cannot happen without there being the funds that we need. I urge the administration strongly to comply with the committee's request because it would be morally unacceptable for us to let this bill get signed into law with this gap still there.

I appreciate the leadership of the committee in trying to get it resolved. They will have our support in doing that. We hope that when this bill is finally signed, those of us who represent fishermen will be able to tell them with some sense of confidence that we are, in fact, doing everything that we can to save them in this difficult situation.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the ships we are talking about today are well over 35 years old. If we were to proceed as scheduled, it is still going to take 2 or 3 years to build them. If we delay, we are talking really no telling how long. Quite frankly, the Navy right now is retiring Block I Aegis class cruisers that are less than 20 years old for maintenance problems. If we are going to retire 20-year-old Navy ships, it is only fair that the people who sail side by side with them, the United States Coast Guard, should have their ships replaced as well.

The gentleman from Kentucky has asked some very legitimate questions. I would hope the administration would be forthcoming with the answers to those questions. It is important to know what sort of financial obligations we are undertaking by replacing these vessels. But the bottom line, Mr. Chairman, is we have no choice but to replace these vessels. They are 35 years old, the newest of them. We are sending young people to sea that are half the age of the vessels they sail on. If it was my son, your son, I know we would want better than that.

I encourage you to get the answers that you seek, for the Coast Guard to be forthright with the information that you seek, but at the end of the day it is important that these ships that were built in the 1960s and the early 1970s be replaced as quickly as possible.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

I really appreciate the action of the gentleman from New Jersey, the chairman of the Coast Guard authorization committee. I really appreciate the gentleman's amendment and the comments that have been made. I think we are all in agreement. There is nothing that hurt me more in this bill than when we were forced to cut back the Deepwater monies until we could get the report of the Coast Guard about what the 20-year plans were.

I am a big supporter of Deepwater. In fact, when I was chairman of the Transportation Appropriations Subcommittee is when we first funded Deepwater. The gentleman from Minnesota and I served on that subcommittee as well. It is a wonderful program.

But then came 9/11. When 9/11 happened, the mission of the Coast Guard dramatically changed and they never really amended the Deepwater program in view of that very alarming new mission that they became charged with. And then we have continued to fund them for the last 2 years just based on their promise that they would get us the revised plan—a rebaselining. And then as time passed and we began to notice with the help of the gentleman from New Jersey's subcommittee that more and more of the Deepwater monies intended for new equipment was being used to maintain the old equipment, increasingly eating into the Deepwater monies. We felt we had no choice but to try to force the issue.

We have bent over backwards, 15 different ways, with the Coast Guard and with the Department to try to get them to tell us the new 20-year plan, the rebaselined Deepwater, so that we all know where we are going and we know what we are buying.

This subcommittee is not going to be a blank check for anybody. We insist on knowing what the program is. I think that is our duty. As soon as the Coast Guard can get us the 20-year Deepwater spending plan, I think the problem will disappear but not until. The old equation, lack of information means lack of money, applies to the Coast Guard as it does to my personal account.

I appreciate the gentleman from New Jersey's work and his attitude in the subcommittee. He is a great leader of that subcommittee and has done a wonderful job. We have enjoyed working with him. He is easy to work with. He is very firm in his convictions, but he understands what has to be done here.

I hope that this painful period of time will pass. It is up to the Coast Guard and the Department and perhaps, most importantly, the Office of Management and Budget to all finally agree and let us get on with it. I thank the gentleman for offering the amendment.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. The concern of the committee to get a rebaselining of the Coast Guard construction program is not something that has just happened recently. I think we have been working on this for a year and a half, 2 years, something like that, to get the rebaselining. It is not a last-second whim that has occurred, but something that we have been concerned about for an extended period of time and have not gotten a response.

Mr. ROGERS of Kentucky. The gentleman is exactly correct. In fact, in the 2002 period of time we were requesting the new baseline. We did that in 2003. And then in the 2005 bill finally, we wrote it into the law that said you shall furnish the rebaselining on a such and so date. That time has long past gone. We still do not have it. What else can we do? I am open to all ideas, but I think the only weapon we have left is withholding funds.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I want to express my appreciation to the gentleman from New Jersey (Mr. LOBIONDO) for bringing this issue to the attention of the House and my appreciation to Chairman ROGERS and Ranking Member SABO for performing the kind of responsible oversight that our branch of government is accountable for.

The gentleman from New Jersey very accurately points out that the Deepwater program is an essential element of homeland security. The Coast Guard's mission has changed dramatically and justifiably since 9/11. For it to carry out that message, its aging and inferior fleet needs to be replaced with a 21st century fleet. I commend the gentleman from New Jersey for taking the lead in making that fleet a reality.

I understand that because of the constraints we are under under this bill, that he will not be able to go forward with his amendment at this time. I obviously support that decision. But I wanted the gentleman from Kentucky (Mr. ROGERS), the gentleman from Minnesota (Mr. SABO) and the gentleman from New Jersey (Mr. LOBIONDO) to know that I would be interested and willing to help in whatever efforts are necessary from this point on so that we can find the optimal and appropriate level of funding for this program so

that we can complete the modernization of the Coast Guard for its very essential new mission.

I again thank the author of the amendment and would urge continued cooperation.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Lobiondo amendment.

The Coast Guard's Deepwater Program will result in a nearly complete recapitalization of the Coast Guard's fleet of vessels, aircraft, and supporting systems.

The Coast Guard's legacy assets are failing at an alarming rate, jeopardizing the success of Coast Guard missions and the lives of Coast Guardsmen.

We must bring the new assets that will be procured through the Deepwater Program online as quickly as possible.

The current bill will not only fail to accelerate the rate at which these assets become available, but it dramatically slows down the delivery of these critical assets.

Following the events of 9/11, the Coast Guard has taken on significant responsibilities to protect maritime homeland security in addition to carrying out its important traditional missions of search and rescue, illegal drug and migrant interdiction, oil spill response and prevention, and fisheries law enforcement.

We must provide the resources necessary to allow the men and women of the Coast Guard to successfully carry out these missions.

The Deepwater Program will provide these assets and I applaud the chairman of the Subcommittee on Coast Guard and Maritime Transportation for his amendment to provide funding to procure the assets needed by the Coast Guard.

I thank the chairman.

Mr. RUPPERSBERGER. Mr. Chairman, I rise today in support of the LoBiondo amendment to the DHS authorization and I ask my colleagues to support it.

The Coast Guard yard in Baltimore, MD has dedicated coasties and dedicated civilian personnel, all of whom are fighting to keep us safe and secure. So it is disheartening to hear that the DHS authorization is going to cut critical funding for the Coast Guard to the tune of $466 million.

This in my opinion is a huge mistake. We have asked the Coast Guard to take on an aggressive and daunting role in protecting our coastlines, ports, rivers and waterways, and more importantly keeping our homeland secure. We cannot and should not be cutting their funding. The Coast Guard is moving in a new and exciting direction that will allow for an all encompassing approach including faster, stronger ships along with an aircraft component. At this time we should not be cutting their budget; we should be making sure they have the tools and resources to keep us safe.

It is my understanding that cuts could result in a loss of up to 108 jobs at the Baltimore Yard and I want to let you know that this is completely unacceptable. The Baltimore Coast Guard yard is already scheduled to lose 50 jobs for the MEP program and to add another 108 jobs on top of it would devastate the yard and the proud maritime tradition that Baltimore has.

I support the new direction for the Coast Guard and believe these new capabilities will only make our homeland security stronger. However, losing skilled ship repair and builders is not a good idea. It is hard enough to find trained workers but to keep pushing them aside will only hurt us when we need their help the most.

But aside from that we are cutting the fleet of vessels that are going to be the new line of maritime defense. We cannot let this happen. This Deepwater project is designed around the new cutters, smaller support craft and integrated aircraft fleet. By reducing funding for this program you will hurt the overall effectiveness of the program and we will lose hundreds of jobs of hard working Americans.

I ask my colleagues to stand in support of this amendment.

Mr. LoBIONDO. Mr. Chairman, I thank the gentleman from Kentucky (Mr. ROGERS) for his focused and outstanding leadership, and I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 2, line 9, after the dollar amount, insert the following: ''(reduced by $18,000,000)''.

Page 37, line 12, after the dollar amount, insert the following: ''(increased by $15,000,000)''.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentlewoman's amendment.

The CHAIRMAN. The gentleman reserves a point of order.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I hope that we will have an opportunity to find common ground. Again, I raise the question to my colleagues, how many of you have been overwhelmed by the number of immigration cases in your office and overwhelmed by the fact that these are individuals seeking legal status.

I referred my colleagues to a report on immigration and naturalization petitions pending from 1997 to 2004. The most glaring point is that citizens and legal permanent residents petitioning for other not immediate relatives under the family preferences are often waiting several years for the petitions to be processed.

□ 1330

The normal cycle is 6 months.

This amendment is simple. It would provide relief by providing for funding for the hiring, clearance processes, training, office equipment, and support services for 300 additional full-time CIS adjudicators above the number of adjudicators presently employed by CIS in fiscal year 2005. This means that the backlog elimination plan as offered by the former Director of U.S. Citizenship and Immigration Services, Eduardo Aguirre, could be further implemented, and, also, the report given by the ombudsman presented in the first annual ombudsman report, which talks about the enormous delay and the need for improving in Citizenship and Immigration Services.

Let me share with my colleagues the long time of waiting in a number of States where these regional service centers are. If one is attempting to get their immediate relatives into the country, in California the waiting started for processing of applications filed in 2003; Nebraska, 2002; Texas, 2002; Vermont, 2003. Unmarried sons and daughters of citizens, these applications are backlogged to July 19, 2001, out of California Regional Center; Nebraska, 2001, Regional Center; Texas, the regional center there, 2001; and Vermont, 1999. If one is a legal permanent resident and they are attempting to get their unmarried son and daughter and they are going to their Congressional office, their petition would be backlogged in California from April 6, 1998; Nebraska, April 13, 2001; Texas, October 30, 1998; and Vermont, January 4, 1999.

Even with the new Department of Homeland Security, Mr. Chairman, it is imperative that we begin to look misdirections. We argue for legal immigration and legal processes, but yet when those individuals try to access the process, they are put in lines that are long and not moving, which frustrates the process, it frustrates our message.

We should promote legalization. We should promote access to legalization. We should promote those who come into this country to seek access to legalization in a legal way, in a way that falls under our laws. But if our processes are broken, then we are not in any way supporting our policies.

This amendment is simple. It provides $18 million to assure us that these 300 adjudicators can help move the process along. It also, I think, tracks very well with our intent as we have seen a number of legislative initiatives being offered. As I said, I have offered the Save America Comprehensive Immigration Reform Act that deals with border protection, that deals with saving America's jobs, protecting immigrant women who are subject to violence. It also, I believe, provides dollars for border protection.

But the question of immigrant services is, even with the good works of this subcommittee, long overdue to improve. These 300 adjudicators can go a long way in improving that and answering the concerns of many of our colleagues when they go into their office and talk to their caseworkers and see the long list of cases dealing with immigrant concerns.

It also responds to those who are aging on the list. They are trying to secure access to citizenship and legalization. They have put in their paperwork, but they have been delayed. Long years of delay. Right now in my office I have an elderly gentleman who simply wants to pledge allegiance to the flag of the United States of America, put his hand up on his heart and salute the flag of the United States of

America. He has been waiting for years. He is aging. He is ill. He wants to return home to his motherland for some issues that he has to contend with, but he cannot move from the United States because we have been waiting and waiting and waiting and waiting for his citizenship process to go forward.

These are the kinds of crises that Members face all over America. These are the kinds of crises that immigrants face who are seeking to follow the process legally.

I ask my colleagues to support this amendment that would allow us to add 300 adjudicators to this process. I believe it is revenue neutral, and I ask my colleagues to support it.

Mr. Chairman, this amendment would increase the appropriation of funds for the Bureau of Citizenship and Immigration Services, CIS, by $18 million for the purpose of funding the hiring, clearance processes, training, office equipment and support services for 300 additional full-time CIS adjudicators above the number of adjudicators employed by CIS in Fiscal Year 2005.

The President supports reducing the lengthy backlog for immigration application processing as an important policy objective. Lengthy backlogs and interminable processing delays are a disservice to the needs of business, keep families needlessly separated, and undermine the integrity of the system.

There is bipartisan agreement that the Department of Homeland Security must catch up on the backlog it inherited from the INS. In fact, the report language for this bill earmarks $120 million for this purpose. But it fails to add money where it is needed most—for increasing the number of adjudicators who can process the backlogged applications.

Just recently, in a bipartisan agreement negotiated between the Chairman and the Ranking Member of the Judiciary Committee, authorization was added during a Judiciary Markup for DHS to hire additional attorneys for the Bureau of Immigration and Customs Enforcement, ICE, and 300 additional adjudicators for CIS. The amendment before us today is necessary to fund the additional adjudicators and the related training and support costs.

After forging that agreement, and passing it out of the Judiciary Committee, the majority tried to undercut that agreement by requiring that the adjudicators be paid for by an increase in immigration services fees. Simultaneously, they authorized explicit funding for the new ICE attorneys to be drawn out of the total DHS authorization.

These costs should not be born by immigrants. Immigrants should not have to subsidize the administrative failures of our immigration agency. It is an insult to require immigrants to keep paying more and more for slower and shoddier service. These funds should be appropriated by Congress, and Congress should demand better agency management of these funds.

I understand and appreciate the concern of those who would resist moving funds from enforcement functions to adjudications. I do not believe that a reduction of $15 million in the funds available for enforcement activities would significantly reduce the effectiveness of our enforcement programs. That amount of money would be sufficient, however, to support 300 additional adjudicators who are desperately needed for backlog reduction in benefits applications.

As to the discussion by the gentleman from Wisconsin, Ranking Member OBEY, regarding his surprise over the submission of this amendment, let me clarify his assumption. This crucial amendment was not intended to broadside anyone. My immigration counsel and someone from Mr. CONYERS' staff met with one of Mr. OBEY's staffers last Friday afternoon to discuss amendments, and this amendment was brought up at that time.

Mr. Chairman, I ask that my colleagues support this amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman continues to reserve his point of order.

Mr. ROGERS of Kentucky. Mr. Chairman, in this bill we double the amount of money that is in the 2005. We double it, $40 million more than they had in 2005, and it is 50 percent more than what the President requested. I mean we are shoveling money at this office. To shovel more money at them would be, I think, wasteful, to say the very least.

Number two, this proposal would cut the Office of the Secretary. We are already doing a lot of that in this bill, and to cut them any more I think would be counterproductive. That Office of the Secretary is $133 million plus. This cut would result in a 15 percent reduction from that figure. The office is largely salaries and expenses, and cuts will result in fewer people attempting to meet an increasing workload. Fewer people means the Department will take even more time to respond to our Congressional inquiries.

We have been critical of that office, but it is this office that will ultimately make the changes needed to make this Department work. They are working on the new Secretary's second-stage review even as we speak. It is only now that the office has been fully staffed up. Any cuts would directly affect these positions.

In 2006 we recommended about 90 new positions to address critical needs in the Secretary's Office. These cuts that the gentlewoman proposes would result in reductions in security personnel responsible for classified material. It would reduce the newly expanded privacy office, and it would reduce the newly created policy office, a function that should help eliminate some of the stovepiped functions that we complain about in the Department.

So I would urge Members to reject the amendment. We have already doubled the amount of money in that account in this bill, and it would slash the Office of the Secretary at a very critical time.

I oppose the amendment, Mr. Chairman.

Mr. PASCRELL. Mr. Chairman, I move to strike the last word.

I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding to me.

I appreciate the dilemma that the chairman speaks to, particularly with respect to the very broad needs that we have.

I want to remind my colleagues that this is $18 million for 300 adjudicators specifically and that what we are talking about is trying to eliminate or bring down the existing 6 million benefit applications that were pending in 2003. As I read to my colleagues, no matter what part of the country they are in, whether they are under the California Regional Service Center, the Nebraska Regional Service Center, the Texas Regional Service Center, the Vermont Regional Service Center, their constituents are facing an enormous backlog. That raises a lot of havoc, Mr. Chairman. In fact, it speaks to security in this country when people are undocumented and do not have the legal papers that would allow them to stay in this country.

It helps young people to age out. One of the issues that we have dealt with is when parents who are trying to bring their children in and the children reach 21 before they are able to even be processed.

This is a crisis. And as one of my colleagues who stood on the floor of the House said, the Department of Homeland Security is huge. This is not an attempt to cause the resources out of the Office of Secretary to be diminished in strategic areas. But I can assure the Members I have great confidence in our new Secretary and those dollars can be effectively moved out of places that would not be damaging to his mission or his work or the work of the Department of Homeland Security.

What we are talking about is providing that $15 million for 300 adjudicators, and I would welcome the opportunity for us to be able to support this amendment and support this amendment in a way that realizes that it focuses on needs that many of our offices face all over America.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Anyone who serves here any length of time knows that one thing that we really appreciate is if we are not surprised or sandbagged by other Members or other committees.

Earlier today the Committee on Rules provided a sandbag to this committee when, without anyone on this side of the aisle knowing about it, they simply left this bill open to a whole variety of points of order. And they did that after we had worked out some delicate compromises between both sides of the aisle. I strenuously objected to that action. I cannot be credible in objecting to that action if I do not also object to surprises that occur on my side of the aisle.

I made a statement in the whip's meeting last week and asked every member of our caucus to please come to those Members of the House on this side of the aisle whose responsibility it is to run the bill from this side of the

aisle. We asked that they come to us if they had any amendments so we could walk through with them how those amendments might or might not fit into the greater scheme of things. At least we wanted to have a chance to consult with Members.

This amendment is here with no prior notice to me. I do not know if anyone else on this side of the aisle was noticed, but I certainly was not noticed, and I do not appreciate it. The fact is we have our differences between parties, but we try to run these bills in a way which will protect the interests of all Members. We cannot do that if individual Members continually surprise us with amendments so that we have not had an opportunity to try to make certain that they are drafted in such a way that they do not get in the way of what the sponsor is trying to do or get in the way of what we are trying to do.

The gentleman from Kentucky has pointed out that this account has already been increased by a very significant amount. It has and I applaud him for it. The fact is there are some accounts in this bill that do not have a dime in it, and that needs to be corrected before an amendment like this is offered.

So I regretfully have to say that while I wish we had more money for a number of these accounts, as one who has to balance where we put limited amounts of money I have to agree with the gentleman from Kentucky and urge defeat of the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, I withdraw my point of order.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentlewoman from Texas is recognized for 5 minutes.

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, far be it from me to attempt to surprise my colleagues. But since we are all equal Members of this body, I consider it my right to approach this issue from the perspective of the knowledge that I have.

I believe in collegiate work, and I believe in working with the collective bodies here, and I do not think I have ever risen to the floor to speak along those lines, but I will do it now. In order to focus on some of the issues that have come to my attention from Members across the aisle on the question of immigrant services, listening to members of the Department of Homeland Security talk about their efforts to ease the burden and knowing the importance of adjudicators which would help, in fact, to ease that burden, I hope that the allotment that has been spoken to both by the ranking member of the full committee and the chairman of the subcommittee will be designated for these important adjudicators.

The purpose of this amendment is valuable, and I think the gentleman from Michigan (Mr. CONYERS) and I viewed it as a valuable amendment. I hope that as we move forward that I will be able to see that those dollars allegedly that have been allocated, some $400 million, will go to easing some of these backlog dates.

I remind my colleagues, 1998, 2001, 2003, all scattered across these service centers. Why? Because they are overburdened. Fingerprints are lost. Applications are lost. So often we hear that in our constituency.

I think the process of appropriations is a complicated process. We attempt to do it in the spirit that is collegiate in this body. We attempt to do it with the knowledge that we have and the research that we do and the work with fellow staff members. If that cannot be done, we move forward.

I hope that we can improve the process because everybody is not in a whip meeting. So therefore I hope that we can improve the process and ensure that when we come to the floor these amendments that we have to be made in order, we have the understanding that they are for a purpose and a reasonable purpose.

□ 1345

Now, I will look forward, as we move toward conference, to monitoring this particular legislation to see whether or not it completely addresses the question of adjudicators, which is what this amendment is all about, the question of adjudicators.

So, Mr. Chairman, I ask my colleagues that if they are having a backlog in their office, I hope that they will consider that the intent of this amendment was not a malicious intent; it was an intent to work collegially and to help solve the problems, and I hope that we will continue in that spirit, to work toward solving problems, because that is what this particular body is all about, solving problems, Democrats and Republicans working together.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this bill, and I congratulate the gentleman from Kentucky (Mr. ROGERS), the chairman, for taking a firm, strong, aggressive stance to secure our borders, because that is one of the issues that is first and foremost on the minds of Americans, whether they are on the border or whether they live 2,000 miles away.

Since the creation of the Department of Homeland Security, there has been a dramatic increase in the number of non-Mexican illegal immigrants, also known as OTMs, apprehended on our borders. In fact, some border patrol sectors have reported a 300 percent increase in OTMs this year alone. This problem has grown exponentially, in part because the Department of Homeland Security has failed to take a strategic approach to detention and removal that ensures that every illegal immigrant apprehended is properly deported.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, my good friend from Texas is correct. The Department has failed to take corrective action, and that is why this act will withhold $50 million in funding until the Department submits a detention and removal plan that addresses these issues in a more comprehensive manner. Already this year, the border patrol has apprehended over 75,000 illegals, Other Than Mexicans, more than twice the number of apprehensions compared to this same time last year; and we still have 5 months to go.

Mr. BONILLA. Mr. Chairman, reclaiming my time, the chairman has worked hard to produce a bill that will fund additional enforcement, within budget limitations, and has set forth directions in the report accompanying the bill to get the Department headed toward a solution.

I also want to thank the chairman of the subcommittee for hearing my concerns regarding the so-called ''catch-and-release'' policy that allows OTMs to be released on their own recognizance. Last summer, I was in communication with then-Secretary Ridge and then-Under Secretary Hutchison regarding this issue, and they responded by authorizing expedited removal for all OTMs apprehended by the border patrol. Unfortunately, the Department has implemented expedited removal in only two districts. I am therefore pleased to see this issue is addressed, as well, in this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, when the gentleman first described to me the ''catch-and-release'' policy and how it has affected the border communities, I was surprised to learn that the Department had not made full use of its authority. I understand that doing so will not only allow the Department to remove OTMs two to three times faster than traditional methods while permitting legitimate asylum claims, but would cut detention costs for such individuals by more than 50 percent.

Mr. BONILLA. Mr. Chairman, reclaiming my time, the chairman is absolutely correct. Expedited removal would allow the Department to save money while addressing the OTM problem. I would also add that taking such enforcement action would help deter OTMs from attempting to immigrate illegally in the first place.

I once again thank the chairman for taking the time to hear the concerns of our border communities and for responding so readily. As a fellow subcommittee chairman, I know the difficulties in finding solutions that meet

budgetary restrictions, and I appreciate the directions he has given to the Department, which will make great strides to ensure that this critical issue is addressed.

AMENDMENT OFFERED BY MRS. MUSGRAVE

Mrs. MUSGRAVE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MUSGRAVE:

Page 2, line 9, insert after the first dollar amount the following: (reduced by $100,000).

Page 26, line 23, insert after the dollar amount the following: (increased by $100,000).

The CHAIRMAN. Pursuant to clause 2(f) of rule XXI, the Chair must query whether any Member raises a point of order against provisions of the bill addressed by the amendment, but not yet reached in the reading, wit: page 26, line 19 through page 30, line 8.

Are there any points of order?

If not, the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized for 5 minutes on her amendment.

Mrs. MUSGRAVE. Mr. Chairman, according to recent news reports, the Department of Homeland Security has hired former actress Bobbie Faye Furgeson as the new ''liaison to the entertainment industry.'' In other words, the Department of Homeland Security is now hiring actresses to communicate with Hollywood.

In March 2004, the Department of Homeland Security posted an opening on the government Web site, USAjobs.com, stating the salary could top $136,000, plus benefits. I want to emphasize that this position has not been specifically authorized by Congress.

I believe that Americans take our homeland security very seriously. They see images of 9/11 that will clutch their hearts for their entire lives. They saw in the news just the other day about the incident here on Capitol Hill and saw people frantically trying to get to an area that was safe. Thank God they were not in danger.

But the people of this country have high expectations in regard to our homeland security after we were violated on 9/11, and they realize how vulnerable we are. I would just like to thank the gentleman from Kentucky (Chairman ROGERS) for his excellent work in living up to those expectations that the American people have for us.

However, I would have a very difficult time explaining to my constituents how we would use over $100,000 in this manner. If people are not aware of what we could do with $100,000, if we move this money to State and local governments to have grants available for our first responders, that amount of money would buy 694 Quick2000 Escape Hoods. Those are like the very hoods that we keep in our congressional offices. It would buy 558 Emergency PA systems, just like those that were used last week to warn people and to tell them about the evacuation. This one really interests me. It would buy 165 bullet-proof vests. There is a young family member that we have that is a police officer, and I realize how first responders rely on their lives with these bullet-proof vests. That amount of money would also buy 40 Level A HAZMAT protective suits, something that is really needed by our first responders.

So instead of spending $100,000-plus on one person who would simply review movie scripts for the government or help identify opportunities for Hollywood outreach and provide resources for TV and movies, we should direct this money to actually help the people who respond and can save lives.

I ask for support of my amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Mrs. MUSGRAVE. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I want to commend the gentlewoman. I think this is an excellent amendment. I am delighted that the gentlewoman has been able to ferret this out and bring it to the attention of all of us, and I want to say what a great job the gentlewoman has done and that I am going to vote for the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $146,084,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses: *Provided further*, That of the total amount provided, $26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

AMENDMENT OFFERED BY MR. SABO

Mr. SABO. Mr. Chairman, I and others offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SABO:

Page 3, line 15, after the dollar amount, insert the following: ''(reduced by $26,100,000)''.

Page 30, line 12, after the dollar amount, insert the following: ''(increased by $50,000,000)''.

Page 30, line 13, after the dollar amount, insert the following: ''(increased by $25,000,000)''.

Page 30, line 14, after the dollar amount, insert the following: ''(increased by $25,000,000)''.

Page 34, line 4, after the dollar amount, insert the following: ''(reduced by $23,900,000)''.

Mr. SABO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABO. Mr. Chairman, our amendment increases the funding for the fire grant program by $50 million, $25 million for the SAFER program, and $25 million for the regular grant program. With the $25 million added to the SAFER program, it would be funded at $75 million, or $10 million above last year's funding.

With the increase to the regular fire grant program, it would be funded at $575 million, unfortunately still a $75 million cut from last year's level. If we had more funding, and more offsets, we would have added it to this program.

I might add that whatever the problems are with the larger local grant program, this is a program that has worked very efficiently and effectively. It is a proven successful program, and grant decisions are made on the basis of independent board review.

The needs of our fire departments are great, and our Federal funding for the fire grant program has decreased in recent years and, actually, as a population that has grown, the number of firefighters nationwide has fallen.

Firefighters still lack basic equipment. The number of firefighters with proper breathing gear and protective clothing has not substantially improved since 9/11.

In 2003, Federal fire grant funding was $746 million; this year it is $715 million. This bill, with the amendment, would increase that amount to $650 million. The offset funding for the new personnel system would be decreased by $20 million, but still would have an increase of $17 million, or 47 percent under this mark.

What this amendment does is it is fully funded in offsets and makes minor adjustments in the chairman's bill but, in my judgment, will result in better fire department capabilities in our local communities; and I urge support for this amendment.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as an author of this legislation with the distinguished ranking member and the distinguished chairman, I thank the chairman for working with us on this compromise. The chairman has been one of the tireless advocates in this body on behalf of the first responder community; and I want to tell the gentleman they recognize that. On behalf of the 1.2 million men and women who serve in the 32,000 departments across America, they understand that the gentleman from Kentucky (Mr. ROGERS) is listening to them.

Last week, when I approached the gentleman from Kentucky (Chairman Rogers) and the gentleman from Minnesota (Mr. SABO), our colleague, the gentleman from New Jersey (Mr. PASCRELL), the gentleman from New Jersey (Mr. ANDREWS), the gentleman from Maryland (Mr. HOYER), and a whole host of Members on our side of the aisle over here, the gentleman from New York (Mr. BOEHLERT) and others, it was with a great deal of enthusiasm that the chairman said he would work

with us, and that allows us to bring this amendment forward today.

Last November, Mr. Chairman, I spoke at the memorial service for our fallen firefighters. We paid tribute to 111 brave Americans, most of them volunteers, who paid the ultimate price in protecting America. Each year in this country, we lose over 100 police officers, we lose over 100 firefighters, paramedics, and EMTs. The difference in terms of law enforcement support, and we spend about $3 billion to $4 billion a year on local law enforcement at the Federal level, is that 85 percent of our first responders in the fire community are volunteers. They get paid nothing. They serve on behalf of these 32,000 departments while doing their full-time job and then come home on weekends and at nights and serve their communities. It is up to us to make sure they have the proper equipment they need.

Now, Members need to understand there is a distinction between the grant program running through the States and the grant program increased by this amendment. The grant program that this amendment increases is directly accessible to the fire departments. There are no middle people. There is no bureaucracy. There is no overhead. They go on line for 30 days once each year, and they apply directly. The grants are actually reviewed by other firefighters. There is no politics. That is why over 19,000 departments in this country have received one or more grants that have benefited our local towns.

This money is not just for homeland security; it is to better equip those departments who, back in 2000, we recognized need national help.

□ 1400

The second part of this amendment provides additional funding to the SAFER program, a program to encourage cities to hire more paid firefighters, volunteer departments to come up with more creative ways to encourage volunteers, and volunteer departments who may have to hire a full-time driver or a full-time officer, to have some of that funding available through this SAFER bill.

It is a significant increase when the program was appropriated to the level of $65 million this fiscal year, to add another $25 million in this amendment to that program.

Let me say just in closing, Mr. Chairman, that we are asking our fire and EMS departments to do more. The recent round of base closings that was announced on Thursday largely closes Guard and Reserve facilities. That is going to put increased pressure for homeland security on those 32,000 fire departments. They are not going to be able to rely on those local Guard and Reserve units, because their facilities are being shut down, so it is all the more reason that this amendment makes sense. It is good policy. It is good fiscal sense. It is paid for.

I commend all of the authors and everybody involved and especially again I want to thank the chairman for his vision, for his foresight, and for working with the ranking member to make this possible.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to join my friend, the gentleman from Pennsylvania (Mr. WELDON) who has done such an extraordinary job in raising the consciousness of the Congress and of the American people with respect to the importance of our volunteer and paid fire fighting community and our emergency medical response teams throughout this country.

I also want to join my good friend, the gentleman from Minnesota (Mr. SABO), and I want to join the gentleman from Pennsylvania (Mr. WELDON) in thanking the gentleman from Kentucky (Mr. ROGERS) for his agreement to move this forward and for helping us fashion this amendment.

I want to thank the gentleman from California (Mr. LEWIS) as well, the chairman of our full committee. Mr. Chairman, I would like to express sincere appreciation to all of those involved, and I particularly want to recognize my friend, the gentleman from New Jersey (Mr. PASCRELL) whose effort was extraordinary in the adoption of the Fire Act, which provides for the basic grant program.

All of us were involved, but no one was more involved and more in the leadership, and of course his bill was the basis for the establishment of this. I would be remiss if I did not also reiterate how important the Fire Service Caucus has been and Bill Webb, who is the Executive Director of the foundation, and their focus on the issues that confront us.

Mr. Chairman, this amendment provides much needed increases to both the Fire Grant and SAFER programs, and moves us closer to fulfilling our obligations to ensure that our Nation's firefighters have at their disposal every resource possible to not only guarantee their own safety, but also to allow them to better serve each of our communities.

The $25 million we add to each of these accounts brings the funding in the bill to $650 million, $575 million for the Fire Grant program, and $75 million for SAFER. The SAFER program deals with personnel, the Fire Grant program is a broader application of moneys dealing both with equipment, safety equipment, training and other matters.

This is $150 million above the level requested by the President and is a reflection of Congress' commitment to ensuring that our fire departments are properly staffed, trained and equipped. But these amounts are still, Mr. Chairman, well below the authorized levels and far from meeting the needs of the fire service.

The gentleman from Pennsylvania (Mr. WELDON) pointed out the fact that the Base Closure Commission or the Pentagon has recommended to the commission the closure of many Guard and Reserve units around the country, and while first responders are critically important now they will be even more so if this action is taken.

The Fire Grant program was established by Congress in 2000, as I said through the leadership of the gentleman from New Jersey (Mr. PASCRELL), the gentleman from Pennsylvania (Mr. WELDON) and so many others, to meet the basic equipment, training and fire fighting safety requirements of America's fire service, and to bring all fire departments to a baseline of readiness to respond to all hazards.

The Fire Grant program has been a tremendous success, providing more than $3 billion for the infrared cameras, HAZMAT detection devices, modern breathing apparatuses, improved training and physical fitness programs, new turn-out gear, fire trucks and interoperable communications systems, to name but a few of the items that have been provided for by the Fire Act.

The simple fact is that the equipment and training provided by these grants have saved the lives of firefighters and average citizens in communities across America, and I am proud to play a role in this program.

The SAFER Program authorized 2 years ago and funded for the first time last year is a vital compliment to the Fire Grant program, because insufficient staffing, defined by National Fire Protection Association as fewer than four firefighters per apparatus, is a very real problem for far too many of the Nation's career and volunteer fire departments.

Not only does that understaffing put at risk the firefighters but, as I said, it puts at risk those whom the firefighters would save, whether in a very serious automobile accident, in a fire, earthquake or other natural disaster.

Responding with fewer than four firefighters per apparatus prevents the first responder unit from complying with OSHA's two-in/two-out standard for safe fire-ground operations and adds unnecessary risk to the already dangerous job of fire suppression.

Mr. Chairman, the NFPA estimates that an additional 75,000 firefighters are required across the country and the additional funding we provide today will move us a little closer to achieving that goal.

Mr. Chairman, I am in strong support of this legislation. I thank the gentleman from Kentucky (Mr. ROGERS), I thank the gentleman from Minnesota (Mr. SABO), and I thank the gentleman from New Jersey (Mr. PASCRELL) and all of those who have been involved in supporting these two vital programs.

Mr. PASCRELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I would like to commend the gentleman from Kentucky (Chairman ROGERS) and the

ranking member, the gentleman from Minnesota (Mr. SABO), for all of the hard work that they have done in bringing this bill to the floor.

Homeland security is a new discipline for this body, and in a relatively short amount of time the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) have provided expertise in the field.

I want to publicly acknowledge the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Maryland (Mr. HOYER) for the leadership they have displayed, that leadership in enhancing our Nation's security.

Mr. Chairman, this amendment is another example of their work to increase our emergency preparedness and response capabilities, and I ask all Members to support it. The challenges of our changed world require us to ask more and more of America's firefighters. Yet, we all know that many of their needs remain unmet. How can we expect our men and women on the front lines to be a real force in the war on terror if we do not deal with their most basic needs?

Like the fact that over 10,000 fire engines are at least 30 years old, or that 27,000 fire stations in the country have no backup power, or that two-fifths of all departments lack Internet access, or the fact that the majority of portable radios firefighters use are not water resistant; the list could go on.

But probably the biggest issue facing the fire service is a lack of manpower. Currently two-thirds of all fire departments, Mr. Chairman, two-thirds throughout America operate with inadequate staffing. And in communities of at least 50,000 people, 38 percent of the firefighters are regularly part of a response that is not sufficient to safely respond to a structure fire because of a lack of staffing. This is unconscionable.

This amendment helps to tackle those problems. It does provide the dollars, as has been pointed out on this floor. It goes without saying that both of these programs, the Fire Grant program, and the SAFER program are of critical importance to our Nation's safety. Fire grants provide funding directly to local fire departments.

In fact, we debated within committee whether or not the Homeland Security Act should provide direct aid to municipalities rather than going through the States, and I think we ought to revisit that subject again and again because of the success of the Fire Act.

And the SAFER Act, which we were able to fund for the first time last year, provides annual grants for the purpose of hiring, recruiting and retaining career and volunteer firefighters. Congress has made great strides, but still we need more. We need more. There is more to do.

Across this great country firefighters and fire departments desperately require more folks on the front lines, more personnel, functioning communications, radios and protective gear. There is a reason for the Fire Grant program, that it had 20,300 applications containing close to $3 billion in requested assistance from departments across the country just in this one year.

These are basic needs we are talking about, and at the time the local jurisdictions are facing tough budget decisions in departments, you know, what are the state of our municipalities? All across this country they are laying off firefighters. This amendment could not come at a better time.

So I implore, we listen to the chairman and the ranking member, and we do as we think we should do and pass this amendment. I want to thank both of them for bringing to it the floor.

Mr. PRICE of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to add my word of support for the gentleman from Minnesota (Mr. SABO's) amendment and commend him for offering it, and also thank the chairman of our subcommittee, the gentleman from Kentucky (Mr. ROGERS), for his cooperation in working out this accommodation.

Several steps have led us to this point. The President's budget was sorely deficient in the area of first responder funding. The President proposed to cut the State Homeland Security block grants by 25 percent. He proposed to cut the Department of Homeland Security firefighter grants by 30 percent. He proposed to eliminate funding for the SAFER program.

And then when you look at the Department of Justice, at the programs that our law enforcement agencies depend on, the President proposed even more massive cuts, a 95 percent cut in the COPS program and a 98 percent cut in the Justice Assistance grants.

We will, of course, not be able to deal with all of that here today. We will hope that our colleagues on the subcommittee appropriating for the Justice Department will attend to this and repair some of this damage.

But today we can deal with the Homeland Security portion of the President's budget. Our subcommittee already has made some improvements in the bill brought to the floor today. The first responder funding was brought to a 10 percent cut overall, which in terms of the President's budget was a gain. State and local block grants in the bill before us would be cut 11 percent, fire grants by 15 percent, the SAFER program by 23 percent.

The gentleman from Minnesota (Mr. SABO's) amendment takes that progression further, and I commend him for it, because it is money that our communities really need. For fire grant funding, half of the committee's cut from the current fiscal year's level would be restored.

SAFER funding would actually be increased $10 million from the current fiscal year. State block grant funding would be increased but it would still fall $400 million short of the current year.

So we are not talking still about generous funding, funding that is anywhere near as generous as it should be, but we are talking about an improvement, and I hope that colleagues on both sides of the aisle will readily agree to this amendment to the committee bill.

Mr. Chairman, all of us, I suspect, have visited and talked with first responders in our districts. I hope and expect that we have thanked them for what they do, because they serve our communities every day. It is important, though, not just to stop with the lip service. It is important to understand that what we are talking about with fire and law enforcement and other first responders is an essential governmental service in which the Federal Government is a crucial partner.

□ 1415

Sometimes that partnership has been in danger of faltering. We have got to make certain that that does not happen. So we need to do more than say thank you. We need to do more than talk about hometown heroes.

We need to put our money where our rhetoric is. This bill is not all that it should be, but with this amendment I believe we will go some distance toward extending to these first responders the kind of support they need. After all, they are being asked to do some new and demanding things in this post-9/11 world. They need some new equipment. They need new communication capacity. They need some new personnel and training.

So we are preparing to extend that assistance, without forgetting that these first responders have been on the frontlines all along.

Traditional disasters, traditional emergencies have not gone away. In fact, the need for a conventional capacity is as strong or stronger than it ever was.

So let us resolve that we are not merely going to pay lip service to these people on the frontline who defend our communities every day. Let us resolve to strengthen the Federal partnership and provide the Federal support that they need and deserve.

Support the Sabo amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

I opposed a similar amendment at the full committee level, but that was due largely to the use of IAIP funds to offset this amount. That would have stopped all construction and renovation of that growing directorate.

We have been working with the gentleman from Minnesota (Mr. SABO), the ranking member, on this particular matter. We found a more suitable offset. We have reduced other first responder grant programs in this bill because of poor guidance and large

unspent balances. However, these grants do go directly to the fire departments. There is no choke point issue involved with these funds, and so I enthusiastically support the amendment on the floor and urge its passage.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, let me just simply thank the chairman for his support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. SABO).

The amendment was agreed to.

Mr. COX. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Kentucky (Mr. ROGERS), chairman of the Subcommittee on Homeland Security, for purposes of a colloquy.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for yielding.

I want to commend the gentleman for his efforts to work with our subcommittee and the Committee on Appropriations, and I regret that the process of coordination did not go more smoothly.

I should acknowledge that the gentleman has indeed only sought to expose to points of order provisions or conditions that are genuinely authorization provisions, not all provisions against which a point of order would lie. Since the exposed provisions and conditions are, in fact, authorizing provisions, I want to assure the gentleman that in the conference negotiations on such provisions, I will follow the will of the authorizing committee in advancing the House position; and the conference report will, to the greatest extent possible, follow the will of the authorizing committee.

Mr. COX. Mr. Chairman, I thank the gentleman, who has been a true leader on homeland security, for his hard work on this bill and his efforts to reach full agreement with the authorizing committee. I regret the fact that rescheduling this bill to earlier in the week deprived us of the time that would have enabled us to accommodate much of these discussions in advance of reaching the floor. But I want to thank the gentleman for his efforts to reach full agreement with the authorizing committee.

Based on the understanding that the conferees will follow the will of the authorizing committee in advancing the House position in the conference negotiations and, to the greatest extent possible, follow the will of the authorizing committee on the provisions and conditions which are, in fact, authorizing, I will not insist on the points of order exposed to objection under the rule that we just adopted today, and I strongly urge my colleagues to do the same.

AMENDMENT NO. 14 OFFERED BY MR. MENENDEZ

Mr. MENENDEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. MENENDEZ:

Page 3, line 15, insert ''(decreased by $50,000,000)'' after ''$146,084,000''.

Page 26, line 23, insert ''(increased by $50,000,000)'' after ''$2,781,300,000''.

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Chairman, the attacks of September 11 made each of us realize that terrorism had entered a whole new realm, one in which our Nation's assets, infrastructure, and people could be attacked by those meaning us harm. The district I have the honor of representing contains a vast number of potential targets of terror, such as the largest seaport on the east coast, one of the busiest airports in the country, an area known as the ''chemical coastway,'' four major chemical plants, and six tunnels and bridges that connect New Jersey to New York City, and if that were not enough, an area in northern New Jersey between Liberty Airport and Port Elizabeth commonly referred to by the FBI and others as the most dangerous 2 miles in America.

The Menendez amendment seeks to address one of the most serious security threats facing our Nation today, and that is the threat of terrorist attacks on chemical plants and facilities.

According to data from the Environmental Protection Agency, there are eight plants in New Jersey where a worst-case release of chemicals could threaten more than 1 million people per attack, and a recent article in the New York Times stated that a chemical plant in my district that possesses chlorine gas poses a potentially lethal threat to 12 million people who live within a 14-mile radius.

So this is obviously a very important matter for the district and State that I come from, but let me make a point here that this is not just simply a New Jersey issue. There are 15,000 chemical plants nationwide, and that same EPA data that I just referenced shows that 123 of these could pose a threat to at least 1 million people each time, if each one of those entities were attacked, if there were a release; 123 times a million, 123 million Americans.

My amendment takes a first step by providing $50 million to State and local governments in order to enhance the security of those chemical plants. Funds might be used by State and local officials to prepare plants to respond to and possibly even prevent attacks on these facilities. This money could be used to equip and train our first responders who would respond to such an attack. Such funds might be used to provide assistance and guidance to the chemical plant officials to implement best management practices that either improve security or use less caustic chemicals, or perhaps this funding could be used to increase law enforcement's presence in patrols around chemical plants. These are just by way of description.

According to the threat level set by the Department of Homeland Security, our local law enforcement agencies are then often asked to provide additional security for these plants. I have heard from several mayors and police chiefs about the serious financial burden those additional patrols are costing their cities, and over time, consequently, their ability to meet this challenge is really under siege; and I am sure this is a problem for law enforcement agencies across our country.

In New Jersey, some of these plants are surrounded by residential communities and transportation corridors that make this issue even more critical for us to secure. I believe if we look at that list of the Environmental Protection Agency across the country we will find that is often the case in other States in the Nation.

I strongly believe we must do what we can to protect our constituents from a clear opportunity here in which millions could be affected by what is otherwise a use of a facility for legitimate purposes.

This is not a new issue or one that is brand new for us. The Hart-Rudman report mentioned chemical plant security. Going back to that report, several of these plants are included on the national infrastructure list. So we are well aware of the problem, and we need to take steps to ensure security at these plants.

I very rarely come to the floor to offer amendments, but I feel compelled when we know the nature of the risk and we know the nature of the threat to do something about it.

This amendment is a modest first step. We do need to make these facilities and our constituents living near them safer and more secure, and I would just urge my colleagues to think about who among us would be content with the counsels of patience and delay if they were living within the radius of one of these chemical plants that could literally cause the deaths of millions of people and we did absolutely nothing to protect them.

In that context, I urge my colleagues to support the Menendez amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

I rise in support of the Menendez amendment, and I want to mention to the gentleman that I know that he is also familiar with this issue, being the ranking member on the subcommittee on the Committee on Energy and Commerce that has jurisdiction over chemical security; and I would hope that as time goes on that we could in our committee, in the Committee on Energy and Commerce, and specifically in the gentleman's subcommittee, have a hearing and address this issue in a more comprehensive way because I do think it needs to be addressed.

In the meantime, I agree with the gentleman from New Jersey (Mr.

MENENDEZ), my colleague, that we should provide additional funding in this appropriations bill to have our State and local responders try to address this issue in a significant way or at least provide some funding so that they could.

As the gentleman from New Jersey (Mr. MENENDEZ) mentioned, we have a number of facilities in our own State of New Jersey where we know that under this EPA report over 1 million people at each of those facilities could be negatively impacted if there was a terrorist attack on a chemical facility. He mentioned at least eight.

In fact, in a hearing just last week in the United States Senate, Mr. Robert Falkenroth, who was a former Bush official with the Homeland Security Department, actually said before the United States Senate that his biggest fear in terms of another terrorist attack would be an attack on a chemical facility. He knows and we know and the Department of Homeland Security knows that this is the one area in the aftermath of 9/11 that has not been addressed.

We have talked about attacking a nuclear plant. We have talked about attacks on port facilities. We have talked about attacks at airports. In every case, there has been an effort by this body to address a terrorist attack and to deal with security issues at those various facilities, but not so in the case of chemical plants. For whatever reason, we have said to the industry that you are on your own; you voluntarily set your own standards. We have not taken action in the House of Representatives or in the Senate to address the issue, and I think that is a shame.

There have been various occasions in the past, most notably in the case of Bhopal, many of my colleagues just remember we just had the 20th anniversary of the Bhopal disaster. In the case there, Union Carbide owned a plant. It was not a terrorist attack, but the result there was over 20,000 people killed. That was not because of a terrorist attack. That was because of neglect or negligence on the part of Union Carbide. It had nothing to do with a terrorist attack, but the devastation at Bhopal, not the 20,000 that were killed but the hundreds of thousands in the aftermath of that crisis 20 years later, are still suffering, have not received medical attention, the impact on their children and the disorders that they are now seeing with their children, I mean, this is the type of thing that needs to be addressed, and it is not being addressed here.

I think my understanding is that the gentleman from New Jersey's (Mr. MENENDEZ) amendment would shift $50 million to State and local programs to try to get them to address this issue.

□ 1430

Now, I think we need a comprehensive program. Senator CORZINE and myself have introduced the Chemical Security Act, myself here in the House, he in the Senate, which basically establishes a nationwide program that would require that chemical plants provide for security. But absent that, because we have not had that, we have not even had a hearing on it in this House, we need our local responders and our State responders, the way my colleague, the gentleman from New Jersey (Mr. MENENDEZ), has described, to have some money so they can go out and do some things to try to shore up this problem and deal with this problem.

So I just want to say again that this is something we should do. It has been neglected here in the House. Hopefully, we will pass the Menendez amendment. Hopefully, we will have a hearing in our subcommittee, Mr. Chairman, and we can begin the process with this amendment of addressing this very important issue not only for the State of New Jersey but for the Nation as a whole.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I fully sympathize with the concerns the gentleman from New Jersey has brought up, and the other gentleman has, about the issue of safety at chemical plants. We have 77,000 of them in the country and 17,000 of those deal with hazardous materials. So it is a big exposure that we have.

However, I have to respectfully urge the defeat of this amendment for two or three reasons. One, we have included $50 million in the bill just for critical infrastructure protection, including chemical plants, already. I know the gentleman will be pleased to hear that we do have that amount of money in there: the amount he is requesting is already in the bill.

Number two, we put in some very strong report language directing the Department to continue and complete the vulnerability assessments of all critical chemical facilities in the country. We have already reduced the State and Urban Area grant programs in this bill because of poor guidance, but mainly because they have still got $6.8 billion that we have appropriated since 2002 in the pipeline. They have only spent 30 percent of all we have appropriated. They have $6.8 billion left in the Office of Domestic Policy, which makes these grants. So there is plenty of money there. There is no point of putting more, until they draw down on what they already have.

Number three, I have a problem with where the gentleman is taking the money from. We have already hit the Under Secretary for Management's Office big time in this bill already. We have taken $26 million today, and this is the place where the important work of the Department needs to take place. If you take this $50 million from the Under Secretary of Management, it could only come from one place without impacting personnel; that is to say, lay off people, and that is the Human Resource System of the Department.

A $50 million reduction in that system would halt implementation of that human resource system program in its tracks. We would be unable to fund the ''pay pool,'' which would prevent the initial conversion of employees from the General Schedule to the new market-based pay bands and the pay-for-performance programs.

We would also be unable to provide competent program management and evaluation. It would delay the establishment of the Department's Labor Relations Board, as required by the final regulations. We would not be able to access knowledgeable outside experts that understand industry best practices in compensation design sets.

We would be unable to fund the training of managers, supervisors, and employees, and that lack of training would also have profound impacts on the credibility of the program with the employee base and their representatives.

So, Mr. Chairman, I reluctantly oppose the amendment, sympathizing with the gentleman's sentiments. But I think we have plenty of money there now, and I do not want to see us hurt the human resource system that is being put in place even as we speak. So I urge the defeat of the amendment.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the reason I move to strike the last word rather than speaking directly to the amendment is because I have mixed emotions. I think the problem the gentleman from New Jersey presents to us is one of the most important and most profound ones we face in the whole question of homeland security.

His amendment bothers me for two reasons: One, I think there are real problems where the money is coming from; and, secondly, I am concerned that we are transferring this problem from the Federal Government to the State governments. Because dealing with chemical security and the security of chemical plants is truly a national problem and not one that should be the ultimate problem of State governments.

The Department, in my judgment, has been incredibly slow in dealing with the problem. The Congress has been slow in dealing with the problem. A year ago we provided $3 million to the Department for a study on whether they should require vulnerability assessments and security plans from the chemical plants. The study has not occurred. We do have language in this bill that urges them to do more in the next year. I hope they listen to that more than what they did to the provision of $3 million last year.

But I would suggest to my friend from New Jersey that the format that we should be following is really what we did in the Maritime Transportation Security Act as it relates to ports. What we required in that bill was for ports to do vulnerability assessments and produce security plans themselves,

and that is what the major chemical plants in this country should be doing. We should not be assessing them, they should be developing their own vulnerability assessments and security plans. And then, as in the Maritime Security Act, where the Coast Guard assesses the plans, that is what we should be doing with chemical plants.

The bulk of the responsibility for implementing those security plans should be with the chemical companies, not with the State. It should not be with the Federal Government, in my judgment, let alone with the States. And I am concerned that we are putting up the assumption that this is now becoming a responsibility we are delegating from the Federal Government to the States.

So the gentleman is absolutely right. This is one of the biggest vulnerabilities that we have. The Department has not been paying attention to it. The Congress has not been willing to deal with the issue of whether this is something we want simply the Federal Government to do or whether we should be requiring the chemical plants, at least the major ones, to have the vulnerability assessments and the security plans and then they submit them to the Department for their evaluation. From there, we can move as to how you remedy the security plans and how you make judgment on the funding you need for local people who might have to respond to an emergency.

So I have mixed emotions about this amendment. I have problems with their premise with the offset and the basic delegation to the States, but the amendment raises, I think, one of the most crucial problems we face in homeland security. And to the other gentleman from New Jersey, who talked about a comprehensive bill he was introducing, I think that is the direction we should be going.

Mr. MEEKS of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. MEEKS of New York. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman from New York for yielding to me, and I want to thank both the chairman and the ranking member on their thoughtful observations about this issue.

I understand the constraints under which they are working. I am not unmindful of that, which is why I rarely come to the floor on amendments because I understand that all of us could devise a different bill but you are given the responsibility collectively for us. But I would just need to make some comments in observation of what has been said.

Number one is the government's responsibility to protect its own people is not delegable to anyone, the private sector or any other entity outside of the government itself. We might want to place responsibilities, and I agree that there are responsibilities that should be placed upon certain legitimate corporate responsibilities, that should be placed upon people who operate in a society and who have a hazardous element to their operation and need to operate in a way and to protect their facilities in such a way that protects the greater good, but ultimately, ultimately the defense of the people is not delegable to any other entity.

The second point is that when I hear the chairman talk about the $50 million placed in critical infrastructure, I do appreciate that, but that is all critical infrastructure. That is nuclear power plants, that is electric grids, that is everything you can think of that we would develop under the rubric of critical infrastructure. And in that context, while understanding the limitations, it is a relatively small amount when you think about protecting all of the Nation's critical infrastructure.

I do not know, as has been pointed out by law enforcement, as has been pointed out by the Environmental Protection Agency, that this critical infrastructure that we talk about in terms of chemical plants does not come to a higher level, because ultimately the potential attack and emissions and the plumes that come from it can kill literally millions and millions of people. And that, in other respects, I think heightens it among the critical infrastructure that exists.

I understand that people are concerned about the management office, although I will note that that is where we just took money for another critical issue. But if you ask the American people between management and protecting the chemical coastways that are along and throughout the landscape of this country, I think they will tell you I would like to see the chemical coastways protected.

Even if we ultimately ask the private sector, those who operate these chemical plants, to have greater responsibilities, which I concur with, at the end of the day it will be police and firefighters who will respond to an attack. At the end of the day it will be a State policeman who will have to respond. These routes are public in nature. If you run along the New Jersey Turnpike, you can easily have access to that New York Times article and that chlorine plant.

So from a public road, an entity which the private sector would have no responsibility for, an attack could be levied. So, therefore, there are going to be resources necessary for the governmental entities, even with a heightened corporate responsibility, to perform. And that is my concern.

We have had Hart-Rudman talk about chemical plants, we have talked about it in the 9/11 Commission Report, and yet we are nowhere nearer to creating any private responsibility nor are we responding in a public context. Hence, that is my concern, and that is why I offer the amendment.

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. MEEKS of New York. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, let me reiterate, or support again what my colleague, the gentleman from New Jersey (Mr. MENENDEZ), said. And I appreciate the comments from our ranking member, but the problem is that the House has not been willing to take up, even in our subcommittee, this issue. In other words, it would be great if we had the opportunity to bring up a bill, I have mentioned the Chemical Security Act, that would actually mandate that companies do in fact come up with their own assessment plans to respond in the event of a terrorist attack. I agree that would be a great thing. But, again, we are not moving in that direction. We have not even had a hearing in our subcommittee on this issue.

Absent that, what we need is some money going back to the States. Because under the Menendez amendment, if money was going back to the States specifically for a chemical security response, then a State like our own of New Jersey would be able to take that funding and basically do some of the things that we would like the Federal Government to do that they are not doing.

So this would accomplish that goal at least for those States that want to take the initiative; that they would have some money for their State and local programs to make the chemical companies respond and do something about this threat. The problem now, as our ranking member said, this is not happening. It is strictly left up to the voluntary efforts of the chemical plants, and that is not a good response.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ).

The CHAIRMAN. The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MENENDEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) will be postponed.

□ 1445

Mr. MCCAUL of Texas. Mr. Chairman, I rise to strike the last word.

I rise in strong support of this important bill and for the purpose of engaging in a colloquy with the gentleman from Kentucky (Mr. ROGERS), the chairman of the Committee on Appropriations Subcommittee on Homeland Security.

Since the tragic events of 9/11 and the subsequent creation of the Department of Homeland Security, there has been a dramatic increase in the number of undocumented aliens apprehended at our borders. And last year alone, approximately 1.2 million people were apprehended at our southwest border. It is

conservatively estimated by border patrol that three undocumented aliens get past our borders for every one that is caught. It is estimated also that the number of non-Mexican illegal immigrants, also known as OTMs, entering our country has increased tremendously in some border patrol sectors by 300 percent this year.

This group, often not on any watch lists and usually lacking legitimate documentation, should cause us all great concern. Despite the risk these persons present, the problem has grown because courts will not impose detection and because the Department of Homeland Security lacks adequate detention space.

As a former counterterrorism prosecutor in the Justice Department whose jurisdiction included the Mexican border, I know firsthand the threat this poses to our national security. When the border patrol catches individuals who do not fall in the category of mandatory detainees, they often have no choice but to release them on their own recognizance with a notice to appear at an immigration hearing, only to disappear later. It is commonly derided by law enforcement as the ''catch-and-release program.'' This is exactly how Ramzi Yousef, the al Qaeda perpetrator of the 1993 World Trade Center bombings entered this country.

This is why I, along with the support of 44 of my colleagues on both sides of the aisle, signed a letter to the Committee on Appropriations asking for full funding of the 2000 border patrol, 800 interior investigators and most importantly, 8,000 detention beds recommended by the 9/11 Commission and authorized by the Intelligence Reform Act.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MCCAUL of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman from Texas is absolutely correct. There is a definite problem with our system that we hope to correct.

The bill before us provides $690 million, $90 million more than DHS asked, for an additional 1,920 detention bed spaces; and that combined with what we provided in the supplemental appropriations bill last week will add a total of 3,870 new beds over the current level. In addition, the bill provides $43 million for alternatives to detention, tripling last year's level and $10 million more than DHS requested. That will go further to attack the problem of the so-called OTMs who abuse our immigration policies and leave a gaping hole in the integrity of the borders.

I am convinced that the so-called catch-and-release practice signals that our current system is in need of significant reform. This bill is intended to make an effort in that respect.

Mr. MCCAUL of Texas. The Chairman has worked hard to produce a bill that will fund additional border security enforcement and detention space within budgetary limitations and supports expanding the use of alternatives to detention as a way of compensating for the shortage of bed space and smart solutions to the bigger problem of coping with the numbers of illegal aliens crossing into our country.

I will continue to work with the chairman and the Committee on the Budget to ensure that in the future detention beds authorized by Congress are fully funded.

I thank the chairman, and I commend the gentleman for taking the time to hear the concerns of our border communities and for responding so readily. All of the items provided for in this bill will help keep criminals and terrorists from crossing into the United States and, when they do, ensure that they are detained and removed from our country.

In the post-9/11 world, this is not just an issue related to immigration; it is one of national security.

Mr. SIMMONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Chairman ROGERS) of the Subcommittee on Homeland Security for entering into this colloquy regarding a very important issue.

As was the case last year, the administration's budget for fiscal year 2006 proposes to transfer funding for the Coast Guard's research and development program to the Department of Homeland Security Science and Technology Directorate. The Department has justified this proposal by suggesting that such a transfer would reduce duplicative programs within the Department and would increase cooperation between agencies. Now, if the Coast Guard R&D program consisted purely of research related to homeland security, I might be able to understand such a transfer. However, Coast Guard R&D supports research and investigations into methods and procedures to improve the service's ability to carry out many of its traditional missions.

At this time, I would ask the chairman if it is his understanding that the Coast Guard's research, development, test and evaluation program will continue to sponsor research to support the service's traditional missions.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SIMMONS. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, yes, I agree that the program should focus on both the traditional and homeland security missions of the Coast Guard.

Mr. SIMMONS. Mr. Chairman, I thank the gentleman for his willingness to address this important issue.

When the Coast Guard was transferred to the Department of Homeland Security, this Congress ensured that the service's unique multi-mission character would be retained. We must maintain the Coast Guard's ability to carry out its many missions, including search and rescue, illegal drug and migrant interdiction, fisheries law enforcement, and protecting the maritime security.

Tomorrow, the Committee on Transportation and Infrastructure will mark up H.R. 889, the Coast Guard and Maritime Transportation Act of 2005, which authorizes funding for the Coast Guard's R&D program within the Coast Guard budget.

So I ask the chairman if he will work with me and my colleagues to find a solution to ensure that the Coast Guard retains control over the direction of this funding.

Mr. ROGERS of Kentucky. Mr. Chairman, if the gentleman will continue to yield, I recognize the gentleman's concerns. We will work with him on this subject if the authorization bill retains R&D funding within the Coast Guard for fiscal year 2006.

Mr. SIMMONS. Mr. Chairman, I thank the gentleman for his willingness to work with me on this matter. I am satisfied we will be able to work this out.

Mr. Chairman, I include for the RECORD statements by the chairman of the Committee on Transportation and the Infrastructure, the gentleman from Alaska (Mr. YOUNG); and the chairman of the Subcommittee on the Coast Guard, the gentleman from New Jersey (Mr. LOBIONDO), in support of this issue.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Simmons-LoBiondo amendment, and I thank my friend from Connecticut for bringing this important amendment to the floor.

This amendment will maintain the integrity of the Coast Guard as a distinct entity within the Department of Homeland Security.

Section 888 of the Homeland Security Act states that the Coast Guard shall be maintained intact with all of the Service's authorities, functions, and capabilities.

The Coast Guard's research and development program has in the past concentrated on the development of strategies and resources aimed to improve the Service's ability to perform all of its traditional and homeland security missions.

The Coast Guard's traditional missions include search and rescue, drug and migrant interdiction, marine environmental protection, ice operations and aids to navigation.

It is imperative that we maintain the Coast Guard's ability to perform these important traditional missions in addition to the Service's homeland security mission.

Just this year, we have seen the importance of the Coast Guard's oil spill response and prevention program.

I am extremely concerned that the transfer of research and development funds to the Department will forever change the Coast Guard's abilities to balance its resources and personnel to carry out its many and varied missions.

We must protect the multi-mission nature of the Coast Guard.

We should provide funding for Coast Guard research, development, test and evaluation directly to the Service in the same manner that we provide all other Coast Guard funds.

This is what the law demands and this is the right thing to do.

I urge my fellow members to support the Simmons-LoBiondo amendment.

Mr. LOBIONDO. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Connecticut.

As my colleague explained, this amendment will restore the Coast Guard's research and development funding to the Service's budget. The removal of this funding from the Coast Guard's direct control will constrict the Service's ability to direct funding to research programs to support both the Coast Guard's traditional and homeland security missions.

Mr. Chairman, this is the second year that the Administration has proposed to transfer this funding to the Department of Homeland Security's Science and Technology Directorate. The Administration has reasoned that the consolidation of research programs within the Department will reduce redundancies and maximize resources available for the entire Department. However, this reasoning does not take into account the strong focus of the Coast Guard's research program to improve the Service's capabilities to carry out its traditional missions of search and rescue, providing aids to navigation, oil spill response and prevention, and illegal drug and migrant interdiction.

Last year, the Coast Guard identified several key areas of concentration for its research and development programs that focused on enhancement to the Coast Guard's maritime safety, maritime mobility, marine environmental protection, and maritime domain awareness programs. I cannot help but be very skeptical that the Coast Guard's research and development program will continue to support such a broad scope of investigations under a DHS program that is wholly devoted to improving homeland security.

The Coast Guard has always been and has continued to be a unique, multi-mission Service within the Federal government. As such, Congress required the Coast Guard to remain an independent entity within the Department of Homeland Security with complete control over all of the Service's functions, authorities, and assets. Any changes to the Coast Guard's research and development program will restrict the Service's ability to improve methods to protect the safety and security of lives and vessels in U.S. waters and on the high seas.

I urge my colleagues to support this amendment and to maintain the integrity of the Coast Guard by restoring funding for the Service's research and development program. I thank the gentleman from Connecticut again for bringing forth this amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I rise to strike the last word.

Mr. Chairman, I applaud the great work the chairman and the ranking member are doing on this bill, but also wish to express my deep concerns and ask for a colloquy with the chairman.

We are not paying enough attention to the northern border of the United States. Unless they represent the border States like Minnesota, some Members may not realize that the U.S.-Canada border is over 4,000 miles long and consists of over 430 official and unofficial ports of entry. However, even with recent staffing moves, moves that I commend, the Customs and Border Patrol has only 1,000 agents along the northern border. That compares to over 10,000 agents on the border which is half the length of the U.S.-Canada border.

This staffing shortage along the northern border poses a real security threat. In fact, due to the shortage, the Department of Homeland Security has looked for new ways to monitor the Canadian border, such as a new proposed requirement for passports to get back and forth across the border. Unfortunately, anyone who has spent time up north knows this will not accomplish much to deter or prevent illegal activities or to secure the border.

Simply put, the Canadian border is just too vast for such an approach to work with many unmanned check points in remote areas. I know from personal stories that at some of these unmanned crossings, people have to wait an hour or more before a border patrol agent can come to lift up the gate so they can cross.

Mr. Chairman, we do not expect al Qaeda and narcotics traffickers to wait an hour for the border patrol to show up at the check point. We have already recognized in numerous laws that high-tech border surveillance must be integrated into the manpower and resources we have up there to get real control over our borders.

In the prior year's Defense Authorization Act, in the prior year's Homeland Security Appropriations Act, and in this year's Intelligence Reform Act, Congress recognized the need to develop high-tech border surveillance. However, what little progress the Department of Homeland Security has made on this front has been entirely confined to the southern border even with the $10 million appropriated in this bill last year. Mr. Chairman, this is unacceptable. We simply are not paying enough attention to the northern border.

Some think the southern border is more dangerous, but I remind my colleagues that terrorists will attack us through the path of least resistance. I believe it is critical that the funds allocated to the Customs and Border Patrol accounts used to pay much-needed research and survey technology, including unmanned aerial vehicles, be not solely devoted to the southern border but also to the northern border to stretch the resources our Custom and Border Patrol manpower has.

Mr. Chairman, I ask that the gentleman from Kentucky work with me to ensure that there is sufficient resources in the bill and in the conference report to address these issues and that it be applied not just to the southern border but to the northern border as well.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for bringing up this important subject. The gentleman makes an extremely important point, and that is we have two borders, the southwest and the Canadian border.

Over the years, I have to agree, we have neglected the northern border. So I join the gentleman in his sentiments that we find the monies, or be sure that the monies we have appropriated are spent on both borders. I thank the gentleman for bringing up that very important point.

Mr. KENNEDY of Minnesota. Mr. Chairman, I thank the gentleman for that commitment and look forward to working with him on this through the conference report.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, in the supplemental bill that we just passed, there was $36 million that had been appropriated for the northern border which the Department was not spending, and with the cooperation of the chairman, we inserted specific language telling the Department to spend the $36 million on the northern border.

Mr. KENNEDY of Minnesota. Mr. Chairman, I thank the ranking member for his commitment on this issue and look forward to working on this supplemental and other issues to ensure that the northern border remains secure.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. KING of Iowa) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $18,505,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $303,700,000; of which $75,756,000 shall be available for salaries and expenses; and of which $227,944,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the

United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further*, That the Department shall report within 180 days of enactment of this Act on its enterprise architecture and other strategic planning activities in accordance with the terms and conditions specified in the House report accompanying this Act.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $83,017,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

BORDER AND TRANSPORTATION SECURITY

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), $10,617,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

AUTOMATION MODERNIZATION

For necessary expenses of the United State Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note) and for the development, deployment, and use of Free and Secure Trade (FAST), NEXUS, and Secure Electronic Network for Traveler's Rapid Inspection (SENTRI), $411,232,000, to remain available until expended, which shall be allocated as follows:

(1) $7,000,000 for FAST.

(2) $14,000,000 for NEXUS/SENTRI.

(3) $390,232,000 for the United States Visitor and Immigrant Status Indicator Technology project: *Provided*, That of the funds provided for this project, $254,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(A) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(B) complies with the Department of Homeland Security enterprise information systems architecture;

(C) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(D) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(E) is reviewed by the Government Accountability Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,885,544,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $35,000 shall be for official reception and representation expenses; of which not less than $141,060,000 shall be for Air and Marine Operations; of which not to exceed $174,800,000 shall remain available until September 30, 2007, for inspection and surveillance technology, unmanned aerial vehicles, and replacement aircraft; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; and of which not to exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: *Provided*, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated in this Act may be available to compensate any employee of the Bureau of Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Under Secretary for Border and Transportation Security, or a designee, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: *Provided further*, That of the total amount provided, $10,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives all required reports related to air and marine operations: *Provided further*, That of the total amount provided, $2,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives a report on the performance of the Immigration Advisory Program as directed in House Report 108–541: *Provided further*, That of the total amount provided, $70,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives part two of the report on the performance of the Container Security Initiative progam, as directed in House Report 180–541: *Provided further*, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: *Provided further*, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every seven days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $458,009,000, to remain available until expended, of which not less than $321,690,000 shall be for the development of the Automated Commercial Environment: *Provided*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security's enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(5) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $347,780,000, to remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to Bureau of Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $93,418,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,300 (2,000 for replacement only) police-type vehicles, $3,064,081,000, of which not to exceed $10,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less

than $203,000 shall be for Project Alert; of which not less than $5,000,000 shall be for costs to implement section 287(g) of the Immigration and Nationality Act, as amended; and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, $3,045,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed $2,000,000 shall remain available until expended: *Provided further*, That of the amounts appropriated, $50,000,000 shall not be available for obligation until the Assistant Secretary of Immigration and Customs Enforcement submits to the Committee on Appropriations of the House of Representatives a national detention management plan including the use of regional detention contracts and alternatives to detention: *Provided further*, That the Assistant Secretary of Immigration and Customs Enforcement, with concurrence of the Secretary of Homeland Security, shall submit, by December 1, 2005, to the Committee on Appropriations of the House of Representatives a plan for the expanded use of Immigration Enforcement Agents to enforce administrative violations of United States immigration laws.

□ 1500

AMENDMENT OFFERED BY MR. KING OF IOWA

Mr. KING of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KING of Iowa:

Page 12, line 20, after the first dollar amount insert the following: ''(reduced by $5,000,000)(increased by $5,000,000)''.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. KING of Iowa. Mr. Chairman, I am offering this amendment to establish how $5 million is spent with regard to the homeland security.

I rise today to offer this amendment to promote participation of employers in the Basic Pilot Employment Eligibility Verification System, a program I like to call Instant Check. This program takes the guesswork out of hiring legal employees. This basic pilot program checks the Social Security Administration and Department of Human Services databases using an automated system so that employers can verify the employment authorization of all of their new hires. This program is voluntary and is free to participating employers. All an employer needs is a computer with an Internet connection, which most everyone has.

My amendment would make it easier for employers to hire legal workers. By using this program, employers no longer have to worry about whether the identification documents used to fill out the required I–9 form are real or forgeries. I have personally used this program and found it easy to use. It was Web-based and gave me an answer quickly. The longest wait for Instant Check that I could devise was 6 seconds.

My amendment would also improve the accuracy of wage and tax reporting. Employees would know after the check whether their information is properly recorded at the Social Security Administration and with the immigration services. If there were any mistakes, they could be corrected so that employees would get proper credit for their Social Security contributions.

This amendment also protects jobs for authorized United States workers. By using this instant check verification program, employers can be sure that they are hiring either U.S. citizens or aliens who are authorized to work in the United States.

The program began in November 1997 with five States in a pilot program, added a sixth State in 1999, and as of December 1, 2004, this basic pilot program has been available to employers in all 50 States. I hope that more employers will take advantage of this and verify their employees. Given that Immigration and Customs Enforcement has the authority to sanction employers for hiring illegal workers, it only makes sense that they should also encourage employers to use the free instant check verification program so that employers can avoid breaking the law.

We need to reduce and weaken the jobs magnet. This is something that does that, the Basic Pilot Employment Eligibility Verification System. I call it Instant Check. The Web page is www.vis-dhs.com/employerregistration.

This amendment simply inserts $5 million and withdraws $5 million in a pro forma effort to direct that funding in a fashion that will promote the Instant Check program. That would be the most effective way of utilizing it. It seems to be somewhat of a trade secret that employers can now verify the employability of their employees.

The CHAIRMAN. Does the gentleman from Kentucky insist upon his point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman withdraws the point of order.

The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $698,860,000, of which not to exceed $5,000,000 shall remain available until expended.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed $487,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $40,150,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(5) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,546,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing aviation security, $4,591,612,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be available for official reception and representation expenses: *Provided*, That of the total amount provided under this heading, not to exceed $3,608,599,000 shall be for screening operations, of which $170,000,000 shall be available only for procurement of checked baggage explosive detection systems and $75,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $983,013,000 shall be for aviation security direction and enforcement presence: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,601,612,000: *Provided further*, That any security service fees collected in excess of the amount appropriated under this heading shall become available during fiscal year 2007: *Provided further*, That notwithstanding section 44923 of title 49, United States Code, the Government's share of the cost of a project under any letter of intent shall be 75 percent for any medium or large hub airport and 90 percent for any other airport, and all funding provided by subsection (h) of such section, or from appropriations authorized by subsection (i)(1) of such section, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: *Provided further*, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I rise to raise a point of order against the paragraph.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I rise to raise a point of order against page 17 beginning with the colon on line 2 through ''intent'' on line 11.

This proviso violates clause 2 of rule XXI. It changes existing law and therefore constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair is prepared to rule.

The Chair finds that this provision explicitly supersedes existing law. The provision, therefore, constitutes legislation in violation of clause 2, rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I commend the chairman and ranking member on a very difficult task. I regret that on this particular language, as you may know, the Subcommittee on Aviation of the Committee on Transportation and Infrastructure want to fund even more than the 75 percent that was proposed in this particular provision of in-line systems.

Again, it was necessary to raise a point of order here. I just want to comment briefly, though, about what we are doing here and what we are not doing here. This section appropriates about $4.6 billion to continue the passenger screening and checked baggage screening system that we have. This, unfortunately, is funded through a passenger tax. It is now $2.50 and $5 maximum for a one-way ticket. It is a fee to pay the security fee.

Members and the public should be aware that right now we are running about a $2 billion shortfall. We assumed this responsibility from the airlines. In addition, the airlines had promised and testified before us that they were paying about a billion dollars and would pay a billion dollars each year if we assumed this responsibility. They have reneged in that responsibility; and last year they paid us $315 million, short some $700 million.

The administration proposed increasing this fee by $3. I proposed increasing it by $2.50 and change this system from a heavy personnel system, in fact, some 45,000 people, an army of TSA personnel which according to the Inspector General and according to the GAO do not perform very well because they do not have the technology.

I propose to impose this fee for a 3-year period and at that point to eliminate the tax and also assist the airlines in the meantime with some of their security finance responsibilities. Right now that has been rejected, both the fee to pay for this by the administration and my proposal. What it does is it leaves us at risk. We have a huge army doing a very poor job because they do not have a high-tech system. That is going to cost money, that money is not in the bill, and I am sad that we are going to pass this legislation.

I raise this because I still want this to be a conferenceable item because we must protect the people of this country and the flying public, and we are not doing so with this provision, and we are not financing it adequately with this provision.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $36,000,000, to remain available until September 30, 2007.

TRANSPORTATION VETTING AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs by the Office of Transportation Vetting and Credentialing, $84,294,000.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence activities, $541,008,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, $50,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives (1) a plan for optimally deploying explosive detection equipment, either in-line or to replace explosive trace detection machines, at the Nation's airports on a priority basis to enhance security, reduce Transportation Security Administration staffing requirements, and long-term costs; and (2) a detailed spend plan for explosive detection systems procurement and installations on an airport-by-airport basis for fiscal year 2006: *Provided further*, That these plans shall be submitted no later than 60 days after enactment of this Act.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for, purchase or lease of not to exceed 25 passenger motor vehicles for replacement only, payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note), and recreation and welfare, $5,500,000,000, of which $1,200,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided*, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $12,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $119,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $798,152,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $22,000,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $29,902,000 shall be available until September 30, 2010, to increase aviation capability; of which $130,100,000 shall be available until September 30, 2008, for other equipment; of which $39,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which $76,450,000 shall be available for personnel compensation and benefits and related costs; and of which $500,000,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: *Provided*, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008, only for Rescue 21: *Provided further*, That of the funds appropriated under this heading for the Integrated Deepwater System, $50,000,000 may not be obligated until the Committee on Appropriations of the House of Representatives receives from the Secretary of Homeland Security a new Deepwater program baseline that reflects revised, post September 11th operational priorities that includes—

(1) a detailed justification for each new Deepwater asset that is determined to be necessary to fulfill homeland and national security functions or multi-agency procurements as identified by the Joint Requirements Council;

(2) a comprehensive timeline for the entire Deepwater program, including an asset-by-asset breakdown, aligned with the comprehensive acquisition timeline and revised mission needs statement, that also details the phase-out of legacy assets and the phase-in of new, replacement assets on an annual basis;

(3) a comparison of the revised acquisition timeline against the original Deepwater timeline;

(4) an aggregate total cost of the program that aligns with the revised mission needs statement, acquisition timeline and asset-by-asset breakdown;

(5) a detailed projection of the remaining operational lifespan of every type of legacy cutter and aircraft; and

(6) a detailed progress report on command, control, communications, computers, intelligence, surveillance, and reconnaissance equipment upgrades that includes what has been installed currently on operational assets and when such equipment will be installed on all remaining Deepwater legacy assets: *Provided further*, That the Secretary shall annually submit to the Committee on Appropriations of the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committee on Appropriations of the House of Representatives:

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,000,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at his or her post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,228,981,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,678,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,000,000 shall be a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2007: *Provided further*, That of the total amount appropriated, not less than $10,000,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until September 30, 2007: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,699,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For necessary expenses for the Office of State and Local Government Coordination and Preparedness, $3,546,000: *Provided*, That not to exceed $2,000 shall be for official reception and representation expenses.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,781,300,000, which shall be allocated as follows:

(1) $750,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): *Provided*, That the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 90 days after receipt of an application: *Provided further*, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(2) $1,215,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $850,000,000 shall be for use in high-threat, high-density urban areas;

(B) $150,000,000 shall be for port security grants, which shall be distributed based on risks and vulnerabilities: *Provided*, That the Office of State and Local Government Coordination and Preparedness shall work with the Information Analysis and Infrastructure Protection Directorate to assess the risk associated with each port and with the Coast Guard to evaluate the vulnerability of each port: *Provided further*, That funding may only be made available to those projects recommended by the Coast Guard Captain of the Port;

(C) $5,000,000 shall be for trucking industry security grants;

(D) $10,000,000 shall be for intercity bus security grants;

(E) $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

Provided, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 90 days after receipt of an application: *Provided further*, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $366,300,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities; for minor perimeter security projects, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: *Provided further*, That the proceeding proviso shall not apply to grants under subparagraphs (B) and (E) of paragraph (2) of this heading: *Provided further*, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: *Provided further*, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office of State and Local Government Coordination and Preparedness certified training, as needed: *Provided further*, That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office of State and Local Government Coordination and Preparedness shall issue the final National Preparedness Goal no later than October 1, 2005; and no funds provided under paragraphs (1) and (2)(A) shall be awarded to States that have not submitted to the Office of State and Local Government Coordination and Preparedness an updated State homeland strategy based on the interim National Preparedness Goal, dated March 31, 2005.

AMENDMENT OFFERED BY MR. LATOURETTE

Mr. LATOURETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LATOURETTE:

Page 28, line 5, after the semicolon insert ''and''.

Page 28, strike lines 6 through 13.

Page 28, line 14, strike ''(F)'' and insert ''(C)''.

Mr. LATOURETTE. Mr. Chairman, it is my intention to ask unanimous consent to withdraw the amendment at the conclusion of my remarks. I want to commend Chairman LEWIS of the full committee, Chairman ROGERS of the subcommittee, and also Chairman YOUNG of the Committee on Transportation and Infrastructure for having dialogues on these particular sections.

These sections in H.R. 2360 make appropriations to three State and local grant programs that are not and have never been authorized, specifically, a trucking industry security grant system, an inner city bus security grants

and inner city rail, freight rail and transit security grants. In each of these areas, the Department of Transportation has existing and ongoing security programs that are managed at the Federal and State level by the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, the Federal Transit Administration, and State safety oversight agencies.

The FRA act provides the Federal Railroad Administration with strong authority to promote rail safety in every aspect of rail operations. The FRA has a robust and active inspector workforce that is on the ground every day inspecting the safety and security of America's freight railroads, and the same with the truck safety and the same with the bus safety.

I want to commend the appropriations subcommittee for looking at this problem, but I want to point out that, one, there is no authorization from the Committee on Transportation and Infrastructure; two, it is my understanding in the homeland security bill that will be on the floor tomorrow there is no authorization as well.

One of the problems that we have seen in the Committee on Transportation and Infrastructure right here in the District of Columbia, Mr. Chairman, is the city council and the District of Columbia when they have looked at a pot of money or when they have looked at a program that has been passed by homeland security but has not gone back and referenced the Federal Rail Act have said, You know what? No more trains going through the District of Columbia. You are going to have copycat legislation like this all over the United States of America.

It is my understanding, and I would invite the distinguished subcommittee chairman to comment if he would want to, that Chairman LEWIS and Chairman YOUNG have talked about the fact that we need to make sure that we do not create an overlay of law and regulation that permits these NIMBY things to pop up. Obviously, everybody in this House wants the safest rail system, safest trucking system, and the safest inner-city bus systems in the world. But we cannot do it if we create a fund over here, a fund over there, and a fund over there.

I would hope that the chairman perhaps could commit to us to working as this bill goes to conference to see how we can put these into existing programs or work out new programs that achieve what I know the chairman is trying to achieve.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. LATOURETTE. I yield to the gentleman from Kentucky.

□ 1515

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman brings up a good point, and I think the gentleman would agree that since 9/11 we have spent most of the Transportation Security money on air flight and we have neglected, I think, rail security and port security and bus security and some of the others, trucking. However, I will be happy to work with him so that we do have moneys that are designated for these particular purposes, so that the Department does not have the capability of spending it all in one place. I think it is important that we do have, if we can get it through the authorization process, kitties destined just for rail, just for ports, just for trucks, buses, and the like.

Does the gentleman agree?

Mr. LATOURETTE. Mr. Chairman, reclaiming my time, I do agree. And I want to thank the distinguished subcommittee chairman. I know some of the frustration that some of us have felt is that the TSA should be named the Aviation Security Administration rather than the Transportation Security Administration. So I know that what the gentleman and the subcommittee were attempting to do was shared by at least this gentleman and I would assume most of the people in the Committee on Transportation and Infrastructure.

Our concern, and I think our concern has always been, as we move forward, that we not create two parallel universes, neither of which has sufficient money to get this job done. And the only purpose of this amendment, which I am going to withdraw when I am through yielding to the gentleman, was that we look at existing programs that already exist and if we want to put $150 million dollars in for rail security that it go to the FTA and that we say that it is going to be used only for security and it is not going to be used for other goofy stuff.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. LATOURETTE. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I think the gentleman is right on track and I think we can agree with it.

Mr. LATOURETTE. Mr. Chairman, I thank the chairman for his agreement.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $600,000,000, of which $550,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $50,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of the Act, to remain available until September 30, 2007: *Provided*, That not to exceed 5 percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $180,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total appropriation.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $10,000,000, to remain available until expended: *Provided*, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

EMERGENCY PREPAREDNESS AND RESPONSE

OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response, as authorized by section 502 of the Homeland Security Act of 2002 (6 U.S.C. 312), $2,306,000.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities of the Directorate of Emergency Preparedness and Response, $249,499,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations of the Directorate of Emergency Preparedness and Response, $225,441,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the

Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided,* That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further,* That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $2,023,900,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: *Provided,* That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: *Provided further,* That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: *Provided,* That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; not to exceed $40,000,000 for financial assistance under section 1361A of such Act to States and communities for taking actions under such section with respect to severe repetitive loss properties, to remain available until expended; not to exceed $10,000,000 for mitigation actions under section 1323 of such Act; and not to exceed $99,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to $40,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: *Provided,* That in fiscal year 2006, no funds in excess of (1) $55,000,000 for operating expenses; (2) $660,148,000 for agents' commissions and taxes; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $40,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $40,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PRE-DISASTER MITIGATION FUND

For a pre-disaster mitigation grant program pursuant to title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $150,000,000, to remain available until expended: *Provided,* That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: *Provided further,* That total administrative costs shall not exceed 3 percent of the total appropriation.

POINT OF ORDER

Mr. SHUSTER. Mr. Chairman, I raise a point of order against, beginning with the colon on page 36, line 19, through ''funds'' on line 22.

The CHAIRMAN. Would the gentlemen state the premise of his point of order? Does the gentleman raise a point of order that the provision supersedes existing law?

Mr. ROGERS of Kentucky. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and the provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: *Provided,* That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES

CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $120,000,000: *Provided,* That the Director of United States Citizenship and Immigration Services shall submit to the Committee on Appropriations of the House of Representatives a report on its information technology transformation efforts and how these efforts align with the enterprise architecture standards of the Department of Homeland Security within 90 days of enactment of this Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $194,000,000, of which up to $36,174,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007; and of which not to exceed $12,000 shall be for official reception and representation expenses: *Provided,* That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further,* That in fiscal year 2006 and thereafter, the Center is authorized to assess pecuniary liability against Center employees and students for losses or destruction of government property due to gross negligence or willful misconduct and to set off any resulting debts due the United States by Center employees and students, without their consent, against current payments due the employees and students for their services.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $64,743,000, to remain available until expended: *Provided,* That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection and for management and administration of programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $198,200,000: *Provided,* That not to exceed $5,000 shall be for official reception and representation expenses.

ASSESSMENTS AND EVALUATIONS

For necessary expenses for information analysis and infrastructure protection as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $663,240,000, to remain available until September 30, 2007.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $81,399,000: *Provided,* That not to exceed $3,000 shall be for official reception and representation expenses.

Mr. HUNTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from Kentucky in a colloquy regarding critical funding that still must be realized in this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I would be happy to engage in a colloquy with the gentleman from California.

Mr. HUNTER. Mr. Chairman, reclaiming my time, I thank the gentleman from Kentucky (Mr. ROGERS) for all his great work on this very difficult bill. We know that homeland security is an issue that is at the forefront of all Americans' minds with a lot of competing priorities. I know the gentleman from Kentucky (Mr. ROGERS) has worked hard to accommodate all of these competing programs. We appreciate that he still has a lot of

work to do, and we appreciate all the great work he did in the past in building that border fence that is presently in the number one smugglers corridor in America between California and Mexico.

And as the chairman knows, we have been constructing that border barrier for a number of years. In fact, I remember the days when a number of border patrolmen held a big sign up saying ''Thank you, Hal Rogers'' for the work that he has done. That fence has been a huge success in stopping drug smuggling, alien smuggling, lawlessness and the murders in that section of the border.

Unfortunately, the fence remains incomplete. And recently we provided the Secretary of the Department of Homeland Security with the authority passed by the full House to expeditiously construct border barriers, and I am specifically interested in that 3½ miles that remain on the San Diego border fence project.

Unfortunately, the construction account in this bill is insufficient to meet the needs of that nationally critical project, and each day that we delay this project becomes more expensive, and with every day that we delay we know that people are crossing in this section of the border, many of whom have criminal records, and we are further mindful of the intelligence reports that have indicated that terrorists are seeking to use this section of the border for access into the U.S.

Mr. Chairman, we understand that the chairman's bill provides $93 million for Customs and Border Protection construction. Can we agree to work with him to ensure that adequate funding is dedicated to this project in fiscal year 2006?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, it will be my pleasure to work with the gentleman and delegation on this project.

In fact, I remember not long ago, perhaps last year, helicoptering along that fence and then getting to the gap where there is no fence and seeing the results of that. So I will be happy to work with the gentleman.

Mr. HUNTER. Mr. Chairman, I thank the chairman for his response.

Mr. Chairman, I yield to the gentleman from California (Mr. CUNNINGHAM), a very important member of our delegation and a real advocate for this border fence and border security.

Mr. CUNNINGHAM. Mr. Chairman, we appreciate the chairman's efforts and especially the efforts of his staff to increase the number of Border Patrol agents above the amount requested by the President. As he could see, Members on both sides of the aisle have spoken to this issue over and over.

I serve as a member of the Permanent Select Committee on Intelligence, and may I have his commitment to work towards achieving the target of Border Patrol agents of 2,000 authorized in the Intelligence Reform and Terrorism Prevention Act of 2005 and also recommended by the 9/11 Commission?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I will be glad to work with the gentleman and all of our colleagues toward that goal.

In fact, between the supplemental bill that passed last week and this bill that is on the floor, if it is successful, we will have added some 1,500 new agents between now and next year. So we are getting closer to his goal.

Mr. HUNTER. Mr. Chairman, reclaiming my time, I now yield to the gentleman from California (Mr. COX), chairman of the Committee on Homeland Security.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to commend the gentleman from Kentucky for the funding that is already in this bill that gets us to 1,500 agents, which he just described, and I am very pleased to hear that he is going to work with us to get to the 2,000 Border Patrol agents.

As the gentleman knows, the Homeland Security Authorization Act, which will be on the floor this week, also authorizes funding for 2,000 new Border Patrol agents in fiscal year 2006. This is the same number that was authorized in the 9/11 Commission Recommendations Implementation Act. Moreover, an important part of 2,000 new agents is the expansion of the Border Patrol training facilities.

Will the chairman work with us to ensure that the funding for these 2,000 new Border Patrol agents, who are critical to our national security, and the accompanying training infrastructure necessary to do so, will be a priority?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, it is a priority of mine. I am delighted to hear the gentlemen who are standing with me here today all agree on this topic.

Mr. HUNTER. Mr. Chairman, reclaiming my time, I thank the chairman for his work for border security and for our country.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH, DEVELOPMENT, ACQUISITION AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $1,258,597,000, to remain available until expended: *Provided*, That of the total amount provided under this heading, $23,000,000 is available to find an alternative site for the National Bio and Agrodefense Laboratory and other pre-construction activities to establish research labs to protect animal and public health from high consequence animal and zoonotic diseases, in support of the requirements of Homeland Security Presidential Directives 9 and 10: *Provided further*, That of the total amount provided under this heading, $10,000,000 shall be used to enhance activities toward implementation of section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193).

TITLE V—GENERAL PROVISIONS

(INCLUDING RESCISSION OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Ms. BEAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of provisions in this bill that appropriate $110 million to the Department of Homeland Security's research into shoulder-fired missile defense for our passenger airlines. I have been working closely with the gentleman from New York (Mr. ISRAEL) to address this very real threat to our passenger jets from shoulder-fired missiles.

The global black market has been flooded with hundreds of thousands of these weapons that are now in the possession of 27 separate terrorist groups around the world. Al Qaeda used them in 2002 to attack an Israeli airliner in Kenya, and terrorists in Iraq came close to shooting down a DHL freight plane leaving Baghdad in 2003. According to the FBI, more than 500 civilians worldwide have been killed in successful missile attacks against commercial aircraft. The State Department has stated that one of the leading causes of loss of human life in aviation has been from shoulder-launched attacks.

Our commercial aircraft passengers deserve from Congress vigilance and commitment to their safety.

Mr. Chairman, the technology to defend American passengers from this threat is almost a reality. Right now DHS-sponsored programs to apply the Department of Defense's research and technology to our domestic passenger jets are nearing their last phase of development and are ready to equip test aircraft for operational evaluation.

This research brings us very close to leveraging the proven technology that has successfully protected our military personnel to commercial aircraft and their customers. Cutting support for this program would be short-sighted at a time when we are just around the corner from a cutting edge defense against terrorists' anticraft missiles. Now is the time instead to move aggressively forward to address this threat.

Mr. Chairman, the President, the DHS, and the State Department all agree that this is important research with important ramifications. I urge my colleagues to support the President's full request for funding of this research and to work together with all of our colleagues in moving beyond the pilot phase to fully protecting our airlines and their passengers from anti-aircraft missiles.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take this opportunity to thank the chairman of the Homeland Security Subcommittee of the Committee on Appropriations. I also want to thank the gentleman from California (Mr. COX), chairman of the authorizing Committee on Homeland Security; and the gentleman from California (Mr. LEWIS), the chairman of the full Committee on Appropriations, for working out what I consider to be a good agreement to leave in this bill the $110 million that the administration has requested for continuing both the development and deployment of MANPADs, shoulder-launched missile defense system for our commercial aircraft.

□ 1530

I know border protection is a very popular agenda item on the populace front, but I think folks send us to Congress not only to protect our borders and deal with the populace issues in putting resources where public opinion and popular opinion would have those dollars, but also to look at the risks and the threat. Today, we face the threat of someone walking through 1950 metal detector technology at our airports which we see across the country, metal detectors, and strapping explosives to their body and not being able to detect explosives. That is our number one threat right now is suicide bombers. In my opinion, the second greatest threat is a shoulder-launched missile.

Now, folks, we have been very fortunate to date in Kenya and Saudi Arabia and Iraq that we have not had a commercial airline with passengers taken down. I think our luck is about to run out, and it is important that we move forward.

Sometimes the administration, that is my administration, has not done everything right, but this is one of the few programs I may say in homeland security that was well thought-out, well-developed, and now the next part is deploying that technology. If, in fact, there is money left over and it is not expended in the program, and that would be my hope, I would support every additional dollar to go towards those priorities this subcommittee has developed for securing our borders.

But I do want to thank everyone for reaching this agreement; hopefully, moving forward in the conference committee, and making certain that we have the resources to protect us, again, against what I consider is our second greatest danger, and that is the danger of a shoulder-launched missile taking down a commercial aircraft. We have to have a system available to protect our aircraft.

The Acting CHAIRMAN (Mr. SHIMKUS). The Clerk will read.

The Clerk read as follows:

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: *Provided,* That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided,* That any transfer under this subsection shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) The Department shall submit all notifications pursuant to subsections (a), (b), and (c) of this section no later than June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year 2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: *Provided,* That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 505. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

SEC. 506. The Federal Law Enforcement Training Center shall establish an accrediting body, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 507. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000 unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and House of Representatives at least 3 full business days in advance: *Provided,* That no notification shall involve funds that are not available for obligation.

SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 509. The Director of the Federal Law Enforcement Training Center (FLETC) shall schedule basic and/or advanced law enforcement training at all four training facilities under FLETC's control to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 510. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 511. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 512. Funding for the Transportation Security Administration's Office of Transportation Security Support, Office of the Administrator, shall be reduced by $100,000 per day for each day after enactment of this Act that the second proviso of section 513 of Public Law 108–334 has not been implemented.

SEC. 513. The Commandant of the Coast Guard shall provide to the Committee on Appropriations of the House of Representatives each year, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a list of approved but unfunded Coast Guard priorities and the funds needed for each such priority in the same manner and with the same contents as the unfunded priorities lists submitted by the chiefs of other Armed Services.

SEC. 514. Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

SEC. 515. Beginning in fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

SEC. 516. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, the Bureau of Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security is transferred to the Department of Homeland Security: *Provided,* That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section.

SEC. 517. Notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.

SEC. 518. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office (GAO) reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a government watch list.

(d) None of the funds provided in this or any previous appropriations Act may be utilized to develop or test algorithms assigning risk to passengers whose names are not on government watch lists.

(e) None of the funds provided in this appropriations Act may be utilized for a database that is obtained from or remains under the control of a non-Federal entity.

SEC. 519. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 520. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 521. None of the funds available in this Act or provided hereafter shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SEC. 522. The Secretary of Homeland Security shall develop screening standards and protocols to more thoroughly screen all types of air cargo on passenger and cargo aircraft by March 1, 2006: *Provided,* That these screening standards and protocols shall be developed in consultation with the industry stakeholders: *Provided further,* That these screening standards and protocols shall be developed in conjunction with the research and development of technologies that will permit screening of all high-risk air cargo: *Provided further,* That of the amounts appropriated in this Act for the ''Office of the Secretary and Executive Management'', $10,000,000 shall not be available for obligation until new air cargo screening standards and protocols are implemented.

SEC. 523. The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: *Provided,* That beginning with November 2005, TSA shall provide a monthly report to the Committee on Appropriations of the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.

SEC. 524. The Secretary of Homeland Security shall implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport 90 days after enactment of this Act.

SEC. 525. None of the funds available for obligation for the transportation worker identification credential program shall be used to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility: *Provided,* That no funding can be obligated for the next phase of production until the Committee on Appropriations of the House of Representatives has been fully briefed on the results of the prototype phase and agrees that the program should move forward.

SEC. 526. (a) From the unexpended balances of the United States Coast Guard ''Acquisition, Construction and Improvements'' account specifically identified in statement of managers language for Integrated Deepwater System patrol boats 110- to 123-foot conversion in fiscal years 2004 and 2005, $83,999,942 are rescinded.

(b) For the necessary expenses of the United States Coast Guard for ''Acquisition, Construction and Improvements'', $83,999,942 is made available to procure new 110-foot patrol boats or for major maintenance availability for the current 110-foot patrol boat fleet: *Provided,* That such funds shall remain available until expended.

SEC. 527. The Secretary of Homeland Security shall utilize the Transportation Security Clearinghouse as the central identity management system for the deployment and operation of the registered traveler program, the transportation worker identification credential program, and other applicable programs for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a central activation, revocation, and transaction hub for participating airports, ports, and other points of presence.

SEC. 528. None of the funds made available in this Act may be used by any person other than the privacy officer appointed pursuant to section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay or prohibit the transmission to Congress of, any report prepared pursuant to paragraph (5) of such section.

SEC. 529. No funding provided in this or previous appropriations Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR) who has not received COTR training.

SEC. 530. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to the Transportation Security Administration in fiscal years 2002 and 2003, and to the Transportation Security Administration, ''Aviation Security'' and ''Administration'' in fiscal years 2004 and 2005, that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems.

SEC. 531. From the unobligated balances available in the ''Department of Homeland Security Working Capital Fund'' established by section 506 of Public Law 108–90, $7,000,000 are hereby rescinded.

SEC. 532. Notwithstanding any other provision of law, the Committee withholds from obligation $25,000,000 from the Directorate of Emergency Preparedness and Response, Administrative and Regional Operations, until the direction in the statement of managers accompanying Public Law 108–324 and House Report 108–541 is completed.

SEC. 533. None of the funds appropriated under this Act or any other Act shall be available for processing petitions under section 214(c) of the Immigration and Nationality Act relating to nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act until the authority provided in section 214(g)(5)(C) of such Act is being implemented such that, in any fiscal year in which the total number of aliens who are issued visas or otherwise provided nonimmigrant status subject to the numerical limitation under section 101(a)(15)(H)(i)(b) of such Act reaches the numerical limitation contained in section 214(g)(1)(A) of such Act,, up to 20,000 additional aliens who have earned a master's or higher degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act.

SEC. 534. None of the funds provided in this Act shall be used to pay the salaries of more

than sixty Transportation Security Administration employees who have the authority to designate documents as Sensitive Security Information (SSI). In addition, $10,000,000 is not available for the Department-wide Office of Security until the Secretary submits to the Committee on Appropriations of the House of Representatives: (1) the titles of all documents currently designated as SSI; (2) Department-wide policies on SSI designation; (3) Department-wide SSI designation auditing policies and procedures; and (4) the total number of staff and offices authorized to designate SSI documents within the Department.

SEC. 535. None of the funds appropriated by this Act may be used to change the name of the Coast Guard Station ''Group St. Petersburg''.

Mr. ROGERS of Kentucky (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 55, line 25 be considered as read, printed in the RECORD, and open to amendment at any point.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Acting CHAIRMAN. Are there any points of order against any pending portion of the bill?

If not, are there any amendments to this portion?

AMENDMENT NO. 1 OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TANCREDO:

At the end of the bill (before the short title), insert the following:

SEC. 536. None of the funds appropriated or otherwise made available in this Act may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

Mr. SABO. Mr. Chairman, I reserve a point of order.

The Acting CHAIRMAN. The gentleman from Minnesota (Mr. SABO) reserves a point of order.

Mr. TANCREDO. Mr. Chairman, my amendment would prevent State and local governments who refuse to share information with Federal immigration authorities from being able to obtain Federal funds under this act. These so-called ''sanctuary'' policies are not only misguided and dangerous; they are also illegal.

Section 642(a) of the illegal Immigration Reform and Immigrant Responsibility Act of 1996 already makes it illegal for State and local governments to prevent their police from interrupting the free exchange of information between State and local police and Federal immigration enforcement authorities. Nonetheless, many local governments adopt policies that explicitly prevent their police officers from cooperating with Immigration and Customs Enforcement agents.

When local governments refuse to share information with Federal immigration authorities, police departments often stop and/or arrest criminal aliens time and again, only to release them without ever having checked their immigration status. As a result, instead of being deported, these aliens move on to commit other crimes oftentimes.

Earlier this month in Colorado, for example, one Denver policeman was killed and another severely wounded by an illegal alien who had come into contact with police in Denver at least three times prior to the incident. He remains at large today.

Another illegal alien in the Denver area who is now awaiting trial for a hit-and-run killing of a man, and he had been arrested, by the way, six times since 1996 and even spent time in jail in Boulder, Colorado, a sanctuary city, by the way; yet, because cooperation between police departments and Immigration and Customs Enforcement was restricted, he was never reported. He goes on trial in July.

The city of Denver, like many other cities, has a sanctuary policy that violates Federal law. Their police manual explicitly prohibits officers from initiating actions whose objective is to ''discover the immigration status of a person.'' The manual also prohibits police from detaining or taking any enforcement action against a person ''solely because he or she is suspected of being an undocumented immigrant.''

These two components of city policy not only prohibit local police from communicating with immigration authorities as required by Federal law, the policy prohibits them from obtaining basic information that might be central to their investigation. The policy sends a clear message to local police when they encounter illegal aliens: don't ask, don't tell. That kind of policy violates both the letter and intent of the 1996 law.

My amendment would put an end to this practice by withholding Federal funds from States and localities that have made an affirmative choice to violate Federal law. In essence, the amendment simply says that if you make a choice to violate Federal law, then you are making a choice to forego Federal funds. It is a choice I think that few cities are willing to make.

Mr. SABO. Mr. Chairman, under my reservation, would the gentleman yield?

The Acting CHAIRMAN. Does the gentleman insist on his point of order?

Mr. SABO. Mr. Chairman, I will continue to reserve my point of order, and I move to strike the last word.

Mr. Chairman, I would like to have the gentleman explain the amendment to me. What is it that somebody at the Federal level has to do?

Mr. TANCREDO. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Colorado.

Mr. TANCREDO. Mr. Chairman, at the Federal level a determination would be made as to whether or not a city has the policies that we have just identified; and if so, then that city would be prohibited from obtaining Federal funds under this act.

Mr. SABO. Mr. Chairman, reclaiming my time, who would make this determination?

Mr. TANCREDO. The Department of Justice, the Department of Homeland Security. It is really not up to me to make that decision.

Mr. SABO. How would they know how to make this judgment?

Mr. TANCREDO. Many of these policies are on record; in fact, all of them are on record throughout the country. They are easily obtainable and observable.

Mr. SABO. How would they proceed to make this judgment?

Mr. TANCREDO. Mr. Chairman, if they can read, they can make the judgment.

Mr. SABO. Are all these laws filed with the Justice Department and the Department of Homeland Security?

Mr. TANCREDO. Well, they are certainly, again, available to every single person in the Department of Justice and Homeland Security because they are printed. These are all laws and/or executive orders. This requires no new determination.

Mr. SABO. So they know today?

Mr. TANCREDO. Absolutely.

Mr. SABO. If any town is doing this?

Mr. TANCREDO. Yes, sir.

Mr. SABO. Is there some registry of that?

Mr. TANCREDO. Well, as I have just explained, in city after city, and, in fact, not too long ago if memory serves me right, the State of Maine actually declared itself to be a sanctuary State. These are not things that are hidden from anybody. These are, in fact, on the books in States in their localities to which we refer. The stuff I used here came right out of the Denver police manual. These are not hidden from anybody.

Mr. SABO. Mr. Chairman, I know they are not hidden, but somebody has to find out. I have no idea how many endless grants they are making. The departments make an endless number of grants, and some of them flow to the State which then flow to local governments. In other cases, some go directly to ports.

Mr. TANCREDO. Mr. Chairman, if the gentleman will yield, perhaps the gentleman's concern goes back to the law.

What I am talking about is adding a penalty to the law. The law is on the books; I am not creating law here. The law is a Federal law; it was passed in 1996. The only thing we are doing is adding some sort of penalty to the violation of the law. So the fact that we have had it now for almost 10 years, it seems to me that we are not creating any new problem for any of these departments, and if the gentleman is concerned about the law itself, then that is where he should perhaps address his concerns.

POINT OF ORDER

Mr. SABO. Mr. Chairman, I make a point of order.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. SABO. Mr. Chairman, I think, clearly, as the author of the amendment says, he clearly is legislating on an appropriations bill and, therefore, violating clause 2 of rule XI. By his most recent statement, he is expanding penalties for the existing law.

The Acting CHAIRMAN. Does anyone else wish to be heard on the point of order?

Mr. TANCREDO. Mr. Chairman, once again, we are not expanding the law in any way, shape, or form. We are simply applying a penalty. That does not expand the law.

The Acting CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair is prepared to rule.

The language of the amendment merely requires the Federal official administering these funds to comply with Federal law. A new duty is not required on the face of the amendment. Therefore, the point of order is overruled and the amendment is in order.

Mr. SABO. Mr. Chairman, I rise in opposition to the amendment.

This is an amendment I think we voted on several years ago, in some variety of it.

The Acting CHAIRMAN. Without objection, the gentleman from Minnesota strikes the requisite number of words.

There was no objection.

□ 1545

Mr. SABO. Mr. Chairman, I have no idea what the full impact of this amendment will be. We voted on it, I think, in the last 2 or 3 years. I think generally it has lost by a significant number of votes. What its impact on local governments is, I think is unpredictable. There are hundreds and thousands of different local units of government, potentially receiving aid under this bill, which we would cut off because of their failure to give some information to the Federal Government.

I just think it is a totally wrong focus on what our problems are in this country. We have real problems with immigration. The real problems relate to how we deal with our borders. The real problem deals with how we deal with undocumented people in this country who have violated criminal laws of this country.

And to start harassing every unit of government, large or small, depending on what information they send to the Federal Government, tying that to they are eligible for funding to deal with basic homeland security in this country, I think is just a serious mistake. I would hope the House would reject this amendment.

Mr. CROWLEY. Mr. Chairman, I rise in strong opposition to the amendment being offered by Congressman TANCREDO. The amendment does not only target victims of crime, it is dangerous to the very security of our homeland. This amendment coerces state and local police officers to step into the role of federal immigration agents. And if they do not assume this responsibility—they are punished.

I ask—who benefits from such a system? Does such a system mean safer streets? No. As the son of a New York City police officer, I am very aware of the importance of trust between local police and the communities they serve. If an immigrant fears talking to police—there will be fewer reported crimes, fewer witnesses offering information, and more dangerous streets for all of us. Does this amendment mean better national security? No. Under this amendment, foreign nationals who might otherwise be helpful to security investigations will only be more reluctant to come forward. Does this amendment mean better communication between localities, states, and the Department of Homeland Security? No. Cities with these quote-unquote "sanctuary policies" are already often the ones who communicate with DHS most regularly—to deal with foreign nationals who have committed crimes.

Does this amendment mean crime victims will be better protected? Sadly, no. Crime victims who unfortunately happen to be immigrants will fear their immigration status might be called into question, and will avoid stepping forward to seek justice. So who benefits from this amendment? People who don't like immigrants and people who mean our country serious harm. Instead of working to support the efforts of state and local police. Instead of working to make reasonable improvements to our immigration system. Instead of state and local governments being able to decide which policies allow them to best "serve and protect" their communities. Instead—we get an amendment that pushes people further underground, leaving our cities even more vulnerable to terrorist threats. If some are interested in scapegoating hard-working immigrants across the US who contribute to our country, schools, cities, and tax base every day—then at the very least we should avoid jeopardizing our homeland security in the process. A "yes" vote on this amendment is a vote for Osama bin Laden; a "no" vote is a vote for America.

I urge a "no" vote on this very un-American and very dangerous amendment.

The Acting CHAIRMAN. (Mr. SHIMKUS) The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. SABO. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 Offered by Mr. TOM DAVIS of Virginia:

At the end of section 516, add the following:

Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

Mr. TOM DAVIS of Virginia. Mr. Chairman, there is a very serious government-wide backlog of security clearance investigations which has caused unacceptable delays in the process. This threatens national security, and it costs taxpayers a lot of money. Because there are so few security clearances and so much work to do, we are overpaying people because of the work. It is just the law of supply and demand.

This backlog is the result of poorly designed management structures and a lack of clearance reciprocity. As a result the Committee on Government Reform, which I chair, held a hearing, and we authored legislation that was included in the 9/11 Act to address the structural problems that plague the security clearance system throughout the government.

Given the longevity of this problem, it is understandable that government agencies and Congressional committees have sought out their own ways to try to avoid bottlenecks in clearance processes.

Section 516 of this bill is just such a work-around. It gives DHS the authority to continue to conduct clearance investigations for itself because government-wide it continues to be very dysfunctional.

The 9/11 Act reforms addressed the managerial chaos that has plagued security clearance policy by creating a new oversight authority for all Federal security clearance policy. Although this new oversight entity will likely grant a number of agencies the authority to continue to conduct their own investigations, it will also be responsible for developing and enforcing consistent standards for investigations across government. We need to give it a chance to do that.

Under this amendment, the Congressionally mandated oversight authority will be responsible for ensuring that investigations for DHS security clearances are done in the most timely and efficient manner once the 9/11 Act reforms take effect, once they take effect. This will keep us on the path to security clearance process reform for all agencies and safeguard both national security and the pocketbooks of the American taxpayer.

I would ask all Members to support this amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, before the gentleman from Virginia yields back, let me say that the

gentleman has brought forth a very important matter, and it is a matter that he, as chairman of his authorizing committee, has worked with us and our staff over the last several weeks very admirably, and I appreciate the willingness of the chairman to work with us in this, and we were happy to work with him.

So I am prepared to accept the amendment, with the congratulations to the chairman, and thanks for his great work in this respect.

Mr. TOM DAVIS of Virginia. Reclaiming my time, Mr. Chairman, I want to thank the gentleman from Kentucky (Mr. ROGERS) and I want to thank the minority for working with us. I understand their frustration.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, it is a good amendment. Hopefully we will adopt it.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I ask Members to support the amendment.

The Acting Chairman. The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

The amendment was agreed to.

Mr. MICA. Mr. Chairman, I move to strike the last word and engage in a colloquy with the gentleman from Kentucky (Mr. ROGERS), the chairman of the Subcommittee on Homeland Security of the Committee on Appropriations.

Mr. Chairman, again, I want to express my gratitude to the chairman of the Appropriations subcommittee, the gentleman from Kentucky (Mr. ROGERS), who has done such a great job on this H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006.

As you know, I had planned to raise a point of order on section 524, which directs the Secretary of Homeland Security to implement a security plan to permit general aviation at Ronald Reagan National Airport as legislating on an appropriations bill. However, I did not do that because I think we share the same intent.

And the gentleman from Kentucky (Chairman ROGERS) has put a provision here in section 524 that does require a plan. However, I think the chairman is aware and realizes that the committee bill passed; that is, the Committee on Transportation bill. In our Subcommittee on Aviation's work done on it, H.R. 1496 has even tougher language directing the opening of Ronald Reagan National Airport. That is our intent, and working with the appropriators, I believe that it will be your intent to also include a strong provision and directive provision in conference, or as this bill proceeds.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I want to commend the gentleman from Florida (Mr. MICA), chairman of the Subcommittee on Aviation, for his valued work in this and many, many areas. We agree on 99 percent of the things that we work on. This is one of them. That is the opening of Reagan Airport to limited general aviation aircraft, as you and I both have for the last 3 years been talking with the Department and other agencies downtown about the need to reopen that airport, at least on a limited basis to general aviation aircraft, and they keep promising a plan, a plan, a plan, and it has been 3 years. And, you know, we won World War II in 4 years, and we can't even think about reopening an airport here in these 3 years.

So it is time to do something, and so in our bill, Mr. Chairman, we direct the Department to bring a plan forward and reopen that airport in 90 days after enactment of this act. And I know that is authorizing language. But I appreciate the gentleman who has jurisdiction over this issue letting us do this at this point in time, because I think he and I share the same view.

We may not be able to pass an authorization bill during the year, so this is sort of a backup procedure. And if you pass an authorization bill dealing with the subject, we will happily stand back and take second fiddle.

Mr. MICA. I thank the gentleman, and in spite of the incident that we had last week, and that was not a planned scheduled arrival, it was a departure from what we are talking about and properly opening National Airport to general aviation, I think, again working together, that we can find a plan that will work and not let the terrorists intimidate us in operating our Nation's capital airport.

Thank you.

Mr. ROGERS of Kentucky. I think probably what the gentleman and myself have been talking about is a plan that reopens that airport at least to charter aircraft who would undergo the same security rigmarole that commercial airliners do today: Background check of the crew and passengers, background check of the owner of the plane, searching passengers' baggage as we do commercial passengers, the same rigmarole that we go on through on commercial passengers today on commercial craft.

Is that the gentleman's understanding?

Mr. MICA. Except for too much rigmarole, I think that we are on the same page. Again I thank you for your cooperation and your leadership, and together I think we will have a chance to open with a sensible, safe, secure plan to general aviation our Nation's capital airport.

AMENDMENT NO. 10 OFFERED BY MR. POE

Mr. POE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. POE:

At the end of the bill, before the short title, insert the following (and conform the table of contents of the bill accordingly):

SEC. 509. None of the funds made available under this Act may be used to carry out section 105(a)(4) and (5) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 44917(a)(4) and (5)).

Mr. POE. Mr. Chairman, first of all, I applaud the chairman for this bill to better protect America. I would, however, like to highlight an unfunded Federal security mandate on the already struggling airline industry. The airline industry is an important sector of the American economy, with increasing fuel costs and taxes, though the industry lost $9.1 billion last year alone and has lost $32 billion since September 11, 2001.

Currently taxes and fees comprise 26 percent of an average $200 airplane ticket. While the Federal Government has taken over much of the security for airlines after the terrorist attacks of September 11, airlines are still paying $777 million annually out of their own pocket for unfunded Federal security mandates, such as catering security, security for checkpoints and exit lanes, and first flight cabin sweeps.

The people loading the peanuts, for example, the airlines are forced to expend $81 million on not only their salaries, but the security checks on these caterers, the people who mark your ticket up with the red crayon at the checkpoint and exit lanes. Airlines, not the government, dispense $79 million on these folks, and the first class cabin sweep crew that inspects the plane prior to boarding, the people who check for bombs in the bathrooms, airlines pay $26 million for them. Perhaps the most and largest unfunded mandate, however, is the Federal Air Marshal Service, which costs the airlines $195 million each year.

Under current law, Federal air marshals are permitted to fly without a cost to the Federal Government or the marshal. Air marshals fly to better protect the cockpit. The Air Transport Association estimates the airlines are losing $195 million a year in opportunity costs by losing these seats.

Continental Airlines, for example, the carrier based out of Houston, Texas, part of which is in my Congressional district, loses between $7 and $9 million in displaced revenue annually. This estimate reflects losses not from being able to sell the Federal air marshal's seat at full fare. Moreover, Continental will pay the Department of Homeland Security $239 million in taxes in 2005 and is currently paying another $312 million in unfunded security mandates.

So my amendment would simply prohibit funds being spent in the bill to support this unfunded Federal security mandate that allows the Federal Air Marshal Service to fly for free. The Federal Government has deemed aviation security a national security issue, as it is. It is only fair that the government fully assume these costs, and not saddle them on the airlines.

In fact, at least two laws signed in the past two sessions have provisions that support Congressional intent for the Federal Government to reasonably pay for aviation security costs. Both the Aviation and Transportation Security Act and Vision 100, the Century of Aviation Reauthorization Act, authorized funds for reimbursement of airport security mandates.

The Poe amendment preserves the ability of Federal air marshals to fly on our airlines, protect our passengers and crew, but it would allow the carriers to charge the government a fare. Airlines like Continental support this amendment because it would enable them to collect a minimal fare, the government fare or the lowest fare available upon booking for Federal air marshal seats.

Mr. Chairman, some may argue that it is the airline's responsibility to provide for security, and they are partially correct. Already airlines cough up scores of dollars to comply with Federal regulations. The Federal Airline Administration reports that full deployment of hardened cockpit doors meeting outlined specifications have been implemented on about 10,000 passenger airlines and foreign aircraft flying to and the from the United States. Expenditures on video monitors and other devices to alert pilots to cabin activity as well as guns in the cockpit are just a few of the other efforts undertaken by the airline industry, all of which are in addition to the hundreds of millions of dollars they incur in unfunded Federal security mandates.

We must bring some relief to these carriers by reducing these unfunded Federal mandates that they are expected to pay out of their pocket. I urge my colleagues to help preserve this vital industry and start by supporting my amendment to allow airlines to collect the minimal government fare on seats filled by Federal air marshals.

□ 1600

We want to keep the airlines flying and help them before they are in a situation of bankruptcy.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have 50,000 employees in the Transportation Security Administration, and they make it safe to fly on airlines. The United States Government is paying the bill.

We have hundreds of millions of dollars worth of x-ray machines that we have put in every airport in the country to be sure that the people flying the airlines are safe. Uncle Sam is paying the bill.

I could go on. The airlines requested that we have marshals on board airplanes so they can say it is safe to their customers for flying on airlines. Uncle Sam pays the bill.

The law says that if we put these marshals on airplanes that the airline will pay their fare or not charge the fare. It does not cost the government anything to do it because it is a service that we are providing. And who pays the salaries of the marshals? Uncle Sam.

Now, they come and say, oh, but you have got to pay a first-class fee for this air marshal, protecting your plane, to fly on your plane? Give me a break.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I will give the gentleman a break. I totally agree with the gentleman.

The biggest benefactor of all the airline security is the airline industry. Something happened post-9/11. We had to provide billions of dollars to loan guarantees to keep them operating.

I recall where many speeches on the new Transportation Security Agency was it was going to be fully paid for. I think over half of the money comes from general revenue today.

I find this amendment sort of unbelievable that the airlines would want us to do this. I totally agree with the gentleman. This amendment should be defeated.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

First of all, Mr. Chairman, I think one of the assets or structures that we have on this floor is to respect a Member's good intention; and my colleague from Texas, I want to acknowledge his good intentions. I would hope that we would have an opportunity to work through the concern expressed here.

But I rise to express my support for the U.S. air marshals and the hard work or heavy lifting that they do on the Nation's airlines every single day and in the Nation's airports. They are not supposed to be noticed, but those of us who happen to be frequent fliers are aware of their service, and they are ready and prepared on some of the more difficult flights that we have, coming to certain regions in the United States.

I would only hope that as we debate this amendment in the midst of fees and expense that I know is borne by our airlines, that we think about the service of these men and women in particular that confront dangers on our behalf on the Nation's airlines.

So I would beg to differ with the gentleman's amendment because I stand in support of the air marshals, and I would hope that there could be some response to the cost, some way of adding or eliminating the burden that our airlines face; but I could not imagine us suffering the loss of these air marshals which we determined were important to us after 9/11. Even though we have given enhanced equipment on airlines, more training to pilots, we are attempting to train our airlines or flight stewards, and we are doing a better job, though it is not a requirement. I believe airlines are doing a better job of informing and training their flight stewards and flight attendants, but I still believe that our flights are better and safer for marshals' existence.

I would hope that our colleagues would act accordingly in reference to this amendment, and I would ask that they support the air marshals in this instance because I believe their work is extremely important.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

The gentleman from Texas, I am sure, has an excellent intention and is interested in helping the airlines. Some of them are struggling, and we do need to help the airlines; but sometimes the airlines do not even help themselves.

I would rise in strong opposition to this amendment. There is probably no economic activity that we support in this country more than our commercial airlines. The chairman has correctly pointed out, 4.5, almost $6 billion in this legislation is for passenger screening, of which we only collect less than half of that. We have a $2 billion-plus shortage that the general taxpayer is paying.

If this amendment was crafted so that we charged the airlines for putting the air marshal on, I might agree with my colleague because we have a shortfall.

I also stated earlier, the airlines came before the Subcommittee on Aviation when we crafted the TSA bill and pledged to pay it $1 billion. That is what they said they would pay if we took away from the airlines, who had that responsibility, the responsibility for passenger screening. Do my colleagues know what they paid last year? Let me repeat it again, $315 million, a shortfall of almost $700 million. So I will be darned if I am going to stand here and support an amendment that would in any way reimburse them for the great expenses.

Look at the event of last week. Not only do we have the apparent expenses; we spent some $20 billion on passenger screening on a system that I have great questions about, but we have also spent billions of dollars in training the pilots to be armed. I supported that program, I promoted that program; but most of those pilots do not go at airline expense. They go at their own expense, spend a week of their time. They are not reimbursed; and now we will have more pilots armed on our aircraft this year than we will have air marshals. They are not getting a darn penny for reimbursement.

So, again, I think we have gone over backwards. We spent $5 billion we appropriated for reimbursements for damages directly related to the events of September 11 to our major airlines. We gave them another $3 billion. Some of that they deserve; some of that they did not deserve in reimbursement. Then we set up a $10 billion loan guarantee fund, of which they only used about $2 billion; but we have done everything, and now they refuse to do anything to help us.

They cannot even collect an additional fee. They are collecting $2.50. I said if we put in a high-tech system, that would double the security fee but get rid of half of the screeners in 3 years, and allow them to keep all $300 million they are now paying and up to a half a billion dollars. They cannot even do the math to keep that money. So I will be darned if I will get up and support giving them one more penny when they will not pay their own fair share.

So I think the amendment is well intended. I salute the gentleman for trying to help the aviation industry. I will join with him, but this is not the vehicle; and it is not the reimbursement that we should be providing in this appropriations measure.

The Acting CHAIRMAN (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Texas (Mr. POE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. POE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. POE) will be postponed.

AMENDMENT OFFERED BY MR. MEEKS OF NEW YORK

Mr. MEEKS of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEKS of New York:

At the end of the bill (before the short title), insert the following:

SEC. 536. None of the funds appropriated or otherwise made available in this Act may be used to close any detention facility operated by or on behalf of U.S. Immigration and Customs Enforcement that has been operational in 2005.

Mr. ROGERS of Kentucky. Mr. Chairman, I ask unanimous consent that debate on this amendment, and any amendments thereto, be limited to 10 minutes equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MEEKS of New York. Mr. Chairman, I yield myself such time as I may consume.

I rise today to urge my colleagues to adopt this amendment, which I hope will cease the recent actions of the Department of Homeland Security's Bureau of Immigration and Customs Enforcement to begin closing the only secure detention center in New York City for noncriminal foreign nationals who enter our country illegally.

Closing this facility and releasing these individuals into the streets, as ICE is beginning to do, without conducting a proper screening, endangers the safety and security of New York City. The Queens detention facility has been utilized by ICE and its predecessor, INS, since 1989. Located within 4 miles of John F. Kennedy International Airport, the facility houses and processes detainees until their status can be determined. ICE oftentimes cannot properly classify a person as ''high risk'' or ''low risk'' at the initial questioning at John F. Kennedy Airport. Only after an investigation, while the individual is detained, can ICE determine whether the individual poses a threat. If it is determined that the entrant has criminal intent, they are transferred to a more secure facility for follow-up.

For example, a co-conspirator in the first World Trade Center bombing slipped through ICE's initial questioning at JFK and was subsequently identified by Queens detention facility personnel as a high-risk individual after they discovered bomb-making plans on this individual. Consequently, many high-risk individuals slip through the cracks initially and are only later identified as high-risk while they are in custody at the Queens detention facility.

In a recent correspondence, my colleagues and I who represent New York City urged the director of ICE, who may become our city's next U.S. Attorney, to halt its efforts to close the only secure noncriminal detention facility in New York City. We know this is New York City now, but it could be where any noncriminal detention facility is in the United States tomorrow; and in this day and age in which we currently live in, we have got to make sure that we are sure that individuals who have entered illegally into this country, that we may have detained, we have got to dot every I and cross every T to make sure we rely on no one to slip through the process.

So to just close what is happening at this facility now, right next to JFK in my district, to just close it in the manner in which they are closing it, just releasing people on the streets, at times we talk about how are you communicating with the individuals that are being released. It is simply by telephonic measures, not even by ankle bracelets or anything else. It endangers the entire population of New York; and I say if it is New York City today, it could be anywhere in the United States of America tomorrow.

So I ask and urge my colleagues to support this amendment which will ensure that this essential facility which serves a vital role in New York City, as well as the country's first line of defense, remain open.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself 3 minutes.

This amendment unnecessarily limits ICE's ability to efficiently manage the limited detention bed space that it has. The fluid nature of enforcement actions by ICE and changing migration patterns around the country mean that demands for detention space across the country changes from day to day, week to week, month to month, year to year.

This bill stresses efficiency and maximizing our limited resources. This amendment would prevent ICE from closing inefficient or unneeded facilities.

This bill already requires a report from the Department on its detention management strategy; and until we see the result of that report, I think this amendment is premature.

We do not like to handcuff an agency without having all of the relevant information on the issue; but I would hate to see us say to ICE, you cannot close any facility ever because it changes the migration patterns of illegal immigration changes from day to day.

So I would urge that we defeat the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEKS of New York. Mr. Chairman, I yield myself such time as I may consume.

Let me just say that what we are looking at right now, the situation where ICE is moving in my district, in this particular facility and the next clearly in the immigration pattern in New York is one where it is very high, coming through John F. Kennedy, which is the gateway to America, if you will.

So when we have a facility like the facility that is currently in the district, to close it without any rationale or reason, then I think that we are defeating ourselves and defeating the security that is necessary to prevent people who enter this country illegally, some who could be very dangerous, from just walking the streets of the City of New York.

□ 1615

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from New York (Mr. MEEKS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. MEEKS of New York. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. MEEKS) will be postponed.

AMENDMENT OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TIAHRT:

At the end of the bill (before the short title) insert the following:

SEC. 536. None of the funds made available in this Act may be used to promulgate regulations without consideration of the effect of such regulations on the competitiveness of American businesses.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

Mr. TIAHRT. Mr. Chairman, I believe that the content of this amendment

should be a part of the debate that we are having on every agency that we are going to fund this year through the Federal budget. Over the last generation, this government has made this country less and less competitive through the regulatory process.

If you look to last year, last year we had a $670 billion trade deficit. Our Federal budget deficit grew and we saw a lot of outsourcing of jobs. Well, if you combine that with what we are seeing happen across the world, pointed out by Thomas Friedman in his book ''The World is Flat,'' China is graduating 350,000 engineers every year. India is graduating 80,000 software engineers. They are attempting to create an Asian Union, which would be an economy of about 3 billion people.

The world is becoming more and more competitive, and part of the reason that we are becoming less and less competitive, part of the reason why we are seeing this trade deficit is because of our regulatory process. But it just does not stop there. We also have problems with litigation, and we need to reform our system because right now the lawsuits are driving up the cost of American products. A good example of how this could change is when common sense limits are put on litigation, such as the statute of repose, where the aircraft industry accepted through the legislation common sense limits on liability and 4,000 jobs were created the very next year. We could apply that to other industries.

Our health care system needs to be reformed. Today, in Kansas, for every hour of health care it takes an hour to comply with regulations, actually, more than an hour, 1.1 hours, on average, of regulatory compliance.

We need to reform our tax policy, our education policy, and our trade policy. We need to have research and development enhancements and we need regulatory reform. Regulatory reform can be a biting part of our government that can stop and stall the economic progress.

If you look at the current regulatory burden on businesses today, about 12 percent of the cost of any product is buried in complying with regulations. If we could cut that in half, we would be at least 5 to 6 percent more competitive worldwide.

So if we are going to find solutions to balancing our trade deficit, to balancing our Federal budget, and to start bringing jobs into America instead of seeing them outsourced out of America, we need to look at every agency and not promulgate regulations that conflict with the competitiveness of American businesses.

Mr. Chairman, I would like to see if the chairman of the Homeland Security Subcommittee thinks we could work together to see that we do not get regulations that would be overly burdensome on American businesses through the Department of Homeland Security. Does the gentleman think he could help me with that task?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. TIAHRT. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman has brought up a very important point, and I would be delighted to work with the gentleman. He is a valued member of our committee and, on top of that, he is a very hard worker. So I would be happy to work with the gentleman.

Mr. TIAHRT. Mr. Chairman, I thank the chairman for those good words and, hopefully, through the effort of our combined work we can make sure we do not have any overly burdensome regulations.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

VACATING DEMAND FOR RECORDED VOTE ON AMENDMENT NO. 10 OFFERED BY MR. POE

Mr. POE. Mr. Chairman, I ask unanimous consent to withdraw my demand for a recorded vote on my amendment No. 10 to the end that it stand rejected by voice vote thereon.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) The amounts otherwise provided in this Act for the following accounts are hereby increased by the following sums:

(1) ''Customs and Border Protection—Salaries and Expenses'', $95,000,000.

(2) ''Customs and Border Protection—Construction'', $25,000,000.

(3) ''Immigration and Customs Enforcement—Salaries and Expenses'', $266,000,000.

(4) ''Federal Law Enforcement Training Center—Salaries and Expenses'', $9,000,000.

(5) ''Federal Law Enforcement Training Center—Acquisitions, Construction, Improvements, and Related Expenses'', $5,000,000.

(b) For the Secretary of Homeland Security to make grants pursuant to section 204 of the REAL ID Act of 2005 (Pub. L. 109–13, div. B) to assist States in conforming with minimum drivers' license standards, there is hereby appropriated $100,000,000.

(c) In the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108–27) shall be reduced by 1.562 percent.

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, if this is the REAL ID with tax offset amendment, I reserve a point of order on the gentleman's amendment.

Mr. OBEY. Mr. Chairman, let me explain what this is. We have had a steady stream of Members for weeks now decrying the fact we just do not have enough resources to do the job we ought to be doing in homeland security or in transportation or in education or in health care or any other endeavor of the Federal Government. The fact is that we do not have those needed available resources because the Members of this House have put themselves in a box. They have done that by, in essence, saying that their number one priority above all others is to provide very large tax cuts for people very high up on the income scale.

Example: This year if you make over $1 million you will get, on average, about a $140,000 tax cut. What I am trying to do here today is to do two things. I am trying to, first of all, help the Congress keep the promises that it made just 6 months ago. Therefore, this amendment would provide an additional $500 million to the Department of Homeland Security to meet the staffing and detention bed space increases that were called for in the Intelligence Reform Act and to allow States to meet the driver's license standards that were just imposed on those States by this Congress 2 weeks ago.

So my amendment is simple. First of all, it adds 500 more people to the Border Patrol. Second, it adds 600 people to the immigration inspector workforce. And thirdly, it adds 4,000 more detention beds so that we can keep the promises laid out in the Intelligence Reform bill.

Finally, we would fund the grant program that is authorized by the REAL ID Act, which the Congress attached a couple of weeks ago. I did not support that act. I did not vote for it. It was attached as a nongermane amendment to the appropriations bill. But we are told by the Congressional Budget Office it will cost about $100 million to implement. We are told by the Council of State Legislative Leaders it will cost $500 million to implement. That is a huge mandate however you slice it that we are laying on the backs of State budgets.

So what I am simply suggesting is we can do both of these things by simply scaling back by a tiny amount that super-sized tax cut for people with super-sized incomes of over $1 million. We would simply cut that average $140,000 tax cut to $138,000, and we would have more than enough to fund these operations.

The Committee on Rules did not allow this amendment to be made in order. That means that the only way it can be considered is if no one raises a point of order against it. I would hope they would not do so. This is a minor adjustment that we would make in the super-sized tax cuts in order to provide significantly more security for the entire country. I think it is worth the investment, and I would urge support for

the amendment, assuming that no one decides to lodge a point of order against the amendment.

POINT OF ORDER

Mr. ROGERS of Kentucky. Mr. Chairman, I make a point of order against the amendment because its proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of rule XXI. The rule states in pertinent part ''an amendment to a general appropriations bill shall not be in order if changing existing law.''

This amendment changes the application of existing law, and I ask for a ruling from the Chair.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. OBEY. Mr. Chairman, I must concede that under the rule that brought this bill to the floor, this amendment is not in order. I regret it. I think the country would be a whole lot better off if we passed the amendment. But I concede the point of order.

The Acting CHAIRMAN. The point of order is conceded and sustained. The amendment is not in order.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

At the end of the bill (before the short title), insert the following:

SEC. ____. For the Secretary of Homeland Security to make grants pursuant to section 204 of the REAL ID Act of 2005 (Pub. L. 109–13, div. B) to assist States in conforming with minimum drivers' license standards there is hereby appropriated; and the amounts otherwise provided by this Act for ''Office of the Secretary and Executive Management'' , ''Office of the Under Secretary for Management'', ''Office of the Under Secretary for Border and Transportation Security—Salaries and Expenses'', ''Information Analysis and Infrastructure Protection—Management and Administration'', and ''Science and Technology—Research, Development, Acquisition and Operations'', are hereby reduced by; $100,000,000, $20,000,000, $20,000,000, $2,000,000, $8,000,000, and $50,000,000, respectively.

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 20 minutes to be equally divided between the proponents and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

This is a scaled-back version of the first amendment I just offered. It does not have the tax offset. It is fully offset by other reductions in this bill, and what it tries to do is to correct the problem that I cited just a moment ago.

Just 2 weeks ago, this House passed a nongermane proposal which established an elaborate and convoluted and Rube Goldberg process by which every American will have to obtain their driver's license in the future. It is going to require added security arrangements for every office that issues State driver's licenses if those licenses are going to be allowed to serve as an ID card when climbing on an airplane. It provides substantial additional duties which will be imposed on States and be imposed on the Department of Homeland Security itself.

Now, I do not know whose cost estimate is correct. I do not know whether the Congressional Budget Office is correct when it says that this will only be an unfunded mandate of $100 million or whether the National Conference of State Legislative Leaders is correct when they say that the unfunded mandate will amount to about $500 million in cost. But for the moment, in deference to my conservative friends on the other side of the aisle, I am assuming the conservative estimate of cost is the accurate one, the one laid out by the Congressional Budget Office.

So I am simply urging that we in fact provide for the States grant program that was authorized in that REAL ID proposal that the majority was so anxious to bring to the House floor just 2 weeks ago. We in the minority had nothing to do with the writing. We in the minority were not consulted on the language. We in the minority were not consulted about the idea of imposing another mandate. We were just told ''take it or leave it.'' And so it is now the law of the land.

Now, I am not in any way reducing accounts below last year's funding level. All we are doing is reducing some of the Secretary's management accounts by a portion of the increases that this bill provides.

□ 1630

The science and technology account, for instance, is being reduced by $50 million of the $55 million increase. That still leaves a small increase.

The Office of Secretary Executive Management will still retain a $7 million increase.

I think we have hard choices to make, and I am not afraid to suggest that I think it is a better use of resources to put this money where the amendment tries to put it to at least keep the majority consistent with its promise in the Contract With America, the good old Contract With America which Congress passed 10 years ago and promised that there would be no more unfunded mandates.

I am just trying to help keep a Republican promise, and I am sure I will have enthusiastic support of Members on the majority side of the aisle.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIRMAN (Mr. SHIMKUS). The gentleman from Kentucky (Mr. ROGERS) is recognized for 10 minutes.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, no one knows at this point in time what this is going to cost. We only passed it 2 or 3 weeks ago. No one has any idea at this point in time what it is going to cost us or States or locals or whomever. I think it is premature at this point in time to take up this amendment. At some point in time during this year before we go to conference, we are probably going to have to deal with this question. But there is just nothing there to give us any idea. Estimates run from $5 million to $100 million, depending on who is asked.

The REAL ID Act authorized such appropriations as necessary to help States make their driver's licenses and other documents more secure for ID purposes. But there has been no time, as I have said, to fully assess the funding required in the first year of the program. DHS is not prepared to move forward quickly. I think the $100 million is absolutely premature. The CBO estimate is only $40 million in fiscal year 2006, not $100 million. The committee has not seen any of the estimates from the Association of Motor Vehicle Administrators which probably knows more about this issue than anybody.

There already exists certain interstate driver's license databases which perhaps could be used and save money which operate on the basis of multistate compacts. These systems currently in existence should be examined to assess their potential to expand or serve as models for a nationwide database. It may be that many costs assumed in the CBO estimate can be avoided by leveraging these systems. We do not need to reinvent the wheel.

And then, Mr. Chairman, the offsets the gentleman's amendment would cut into are very undesirable. Cutting these programs would be very unwise. The IAIP agency has already been reduced $11 million for failure to submit reports to the Congress. Any further reduction could impact information sharing with State and local agencies conducting vulnerability assessments and construction and renovation of space for the directorate.

A cut to Science and Technology may have a direct linkage to the success of other programs. For instance, a cut to the Office of Interoperability and Communications can greatly impact the effectiveness of resources spent on first responder grants. In every war effort, it is easier to fund soldiers than science because what soldiers do is obvious; what science does is not. However, like the development of the tank in World War I and the development of the atomic bomb in World

War II, science can profoundly influence the outcome.

There is reason to believe that homeland security science can have a similar success on the war on terror. We cannot cut the Office of the Secretary. It is a tempting target, but it has already been hit by everybody in the room. Their office is only $133-plus million, and significant reductions will negatively affect their operations. The office is largely salaries and expenses, and cuts will result in fewer people attempting to deal with an increasing workload. Fewer people means DHS will have less time to respond to Congressional inquiries, for example.

We have been critical of the office, but it is this office that will ultimately make the changes needed to make the Department work. They are working on the new Secretary's second-stage review even as we speak. So I hope we would not accept this amendment for the reason that we do not know how much money we need to run this program this year. We will find out as time goes by during the year. We can put money in the conference at the end of the year as necessary. So let us not jump off the cliff until we get to it.

Number two, this amendment would devastate the Department's operations because it goes right to the heart of what they are doing. I urge the defeat of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

Let me get this straight. Two weeks after the majority party imposed this huge new unfunded mandate and required that it be attached to the defense appropriations supplemental to pay for the war in Iraq, we are now told by the majority, gee, we do not have any idea what this is going to cost. You mean you imposed a mandate without having any idea what it was going to cost?

If we follow the logic of what the gentleman is saying, we will say to the States, Congress had no idea what it was doing and so you are going to pay the bill. That is what the gentleman has just said. I find that mighty peculiar.

I urge an ''aye'' vote on this amendment. I want to make clear I did not vote for REAL ID. I think it is a cockamamie idea, but it is now the law of the land; and the question is, is the Federal Government going to pay for what it mandated, or is it going to stick the cost on the backs of local and State governments? I hope it is not the latter.

Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Chairman, I thank the ranking member for yielding me this time.

First, let me ask the gentleman a question: Is not a significant amount of the money that the gentleman is reducing consultant money?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, what we are doing is reducing the increase in the amount of money that is in this bill for consultants.

Mr. SABO. Mr. Chairman, I thank the gentleman.

I am just afraid we are doing another miniature No Child Left Behind in this law that we passed a couple of weeks ago. It is the Federal Government again deciding how the States should run something that States have historically done. States have historically issued driver's licenses in this country. So now wise people in Washington are now telling them how to do it. Again, we are not going to pay them money to do it. Then we have all kinds of requirements that may or may not make sense. They make sense to somebody who sits down here and writes law who, I doubt, has ever administered the issuing of driver's licenses in any State.

Sort of a repetition again in miniature scale of what we did in No Child Left Behind. I think that is a law which is fraught with troubles throughout the country. This is much smaller in scale, but we are repeating the same thing that we did in that law. I think it is a mistake. I think it is going to complicate life immensely for all of our citizens as they go about the process of moving around this country and getting new driver's licenses.

But at a minimum, we should be doing a significant part of the funding to make sure we do not adversely impact all of the States by this wisdom that we are sending down from Washington.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

As the gentleman from Minnesota (Mr. SABO) pointed out, this amendment is simply asking the Congress to stick to its promise in the Contract With America, to not provide any more unfunded mandates. What we are saying on this side of the aisle, we did not vote for this turkey, but it is now law; and given that fact, we ought to at least make sure this does not wind up on the backs of the States and local governments. What we are saying is at least keep your commitment not to load any more on the State and local property taxes, and let us pay for this by simply reducing the size of the growth in consultants at the Secretary's level. This is already a bloated, dysfunctional agency. We are now going to be asked to provide very large increases to provide more consultants. It seems to me that they can afford to get along with a few less consultants so we can provide one less unfunded mandate in State and local government.

Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself the balance of my time.

The gentleman is right in the respect at some point in time we are going to have to pay the bill. At this point in time, we have not received a bill. We have no idea what the bill is going to be. We get different estimates. Different people have different ideas, but there has been no consensus reached on how much money is needed and to whom.

I assure Members in the due course of time when that information comes to us, monies will be made available to pay for this program in due course of time without hampering the agency, as this amendment would do. I urge a ''no'' vote on the Obey amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ROGERS of Kentucky. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. OBEY) will be postponed.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (before the short title), insert the following:

SEC. 536. None of the funds appropriated or otherwise made available by this Act may be used to patrol the border of the United States except as authorized by law.

Ms. JACKSON-LEE of Texas. Mr. Chairman, this amendment simply, as stated, eliminates the opportunity for any resources to be utilized to patrol the border of the United States except as authorized by law.

I spoke earlier today on the floor of the House about the frustration Americans have with respect to the influx of illegal immigrants and immigration and, of course, I also offered to my colleagues that we must solve this problem in a bipartisan manner.

In respecting that frustration, I am respectful of those who have taken up their own causes. One group happens to be the Minutemen.

□ 1645

The Minuteman group has utilized their resources in Arizona and expect to move their operations to Texas, New Mexico and California. I would argue vigorously that these kinds of efforts can make a very difficult and unsuitable atmosphere for the border.

Let me cite for you one of the individuals that is responsible for the organization Minutemen speaking about the issues, for example, in Texas:

If the Minutemen were to come to Texas, there are serious logistical problems for patrols in Texas. Most of the

land along the Texas border is privately owned and some of it is urbanized, unlike the open land the group monitored in Arizona. And the same reports of drug violence that have scared some tourists away from the south Texas region have become a concern for the Minutemen. ''The Texas border is pretty dangerous right now,'' Chris Simcox said, who heads the Minutemen. ''That won't scare the Arizona-based citizen patrols away,'' he said, ''but it does mean they will be more careful in planning their operations. Security becomes a serious issue because we are going to be annoying a lot of people.''

This amendment is simple. What it says is that we have to protect the Federal officers and other law enforcement officers that are entrusted with the responsibility of immigration control in the United States of America. That protection cannot give them the extra added burden using resources to try to protect those who are acting in an unauthorized way. This specifically states that we would not allow such funds to be used in an unauthorized way.

Mr. Chairman, this proposal seeks to prevent the funding of increased liability for the Federal Government, to prevent the incidental injuring or killing of aliens, citizens, or volunteers, to prevent the creation of a sad precedent of shirked Federal responsibility. The purpose of the Jackson-Lee amendment is to control these issues before they become problems. Last Sunday, May 15, 2005, I put the people of the Eighteenth Congressional District and of the State of Texas on notice that the ''Minuteman Project'' has proposed to enter our borders in order to monitor for illegal border crossings.

I was joined on Sunday by Ms. Mabel Rogers, who is the President of the American Federation of Government Employees, AFGE, Local No. 3332 for coming out to share her expertise in the area of border security and the issues that can arise if groups such as the Minutemen attempt to enforce immigration law.

In addition, I was joined by Ms. Adriana Fernandez, who leads the Association for Residency and Citizenship of America, ARCA, right here in the Eighteenth Congressional District of Houston, Texas for her time, efforts, and more so for the passion that she exhibited in bringing her colleagues to share their concerns in this matter.

The Minuteman Project has good intentions, but we object to the potential negative social, legal, and economic impact that it can have on the Texas borders.

The problem of porousness of the borders is a Federal Government problem. It is a Department of Homeland Security, DHS, problem. DHS has legal jurisdiction over the borders; therefore, it is DHS that must address our border security needs.

An unofficial, untrained, and uncontrolled militia is the wrong answer for a problem that is within the Federal Government's responsibility. If the job is not being done sufficiently, we must look to Congress and the executive branch to exercise oversight and to improve performance.

The Minuteman Project is headed for the Texas borders, and their presence will be the recipe for danger, conflict, and increased legal enforcement costs for the Federal Government. The Houston Chronicle reported on May 12 that the controversial group that began as a month-long engagement along the Arizona border plans to enter Texas to operate its hunt for illegal border crossings.

Other media and eyewitnesses have suggested that many of the participants in the Minuteman Project have carried firearms, incited retaliatory measures by gang members, incited more groups to organize in a similar fashion along other American borders, and created a situation that suggests potential constraints on the individual civil rights of undocumented persons.

The arrival of this group to Texas is an example of what I feared during its initial engagement during the month of April—propagation in other borders. Empowerment of unofficial, untrained militia to carry out the functions of the Federal Government instead of simply improving the staffing situation at the Customs and Border Patrol and the Immigration, Customs, and Enforcement Agencies is a dereliction of duty and a condoning of potential vigilantism. I urge the Governor of Texas to disinvite the Minuteman Project to the U.S.-Mexico border of Texas.

Several differences between the U.S.-Mexico border of Arizona and Texas make it potentially injurious for the arrival of the Minutemen. The traffic growth in Texas would dramatically increase the probability of injury or death of aliens or other innocent civilians.

In 2001, U.S. Customs inspectors logged 3,133,619 cargo trucks as they entered Texas border towns from Brownsville to El Paso, up from 1,897,888 commercial vehicles in fiscal year 1995, the year NAFTA took effect. Furthermore, the topography at the Texas borders is more dense and provides more places for people involved in violent disputes to hide. In addition, even as the leader of the Minuteman Project stated to the Houston Chronicle, 'there are serious logistical problems for patrols in Texas. Most of the land along the Texas border is privately owned, and some of it is urbanized, unlike the open land the group monitored in Arizona.'

What we need instead of a situation of potential violence, violation of civil rights, and costs associated with restoring peace and security at the borders is a comprehensive immigration plan like I proposed with the introduction of my legislation, the 'Save America Comprehensive Immigration Act, H.R. 2092.'

As a member of the House Committees on the Judiciary and on Homeland Security, I had the opportunity to actively participate in a markup hearing for the ''Homeland Security Authorization Act for FY 2006, H.R. 1817.''

In the context of an amendment that I offered that called for studies and analysis of the issue of border violence, I was able to obtain a commitment from the chairman of the Homeland Security Committee to join me and the ranking member in a bipartisan letter to the Department of Homeland Security to direct it to gather information and to identify the problems surrounding the contention reported at the locations patrolled by volunteers.

Effective, efficient, and safe border security requires properly trained personnel. We need to improve our Customs and Border Patrol and Immigration and Customs Enforcement agencies rather than empower militias to do their job. The enforcement job requires accountability, training in the area of human rights, language skills, non-violent restraint techniques, and weapons handling.

The legal accountability principles such as respondeat superior and vicarious liability do not clearly apply to the Minutemen for injuries or damage that may be sustained by the private properties that abut the Texas borders; the heavy stream of commerce constantly traversing the border; or innocent bystanders who may be in the wrong place at the wrong time.

Mr. Chairman, the Jackson-Lee amendment seeks to prevent liability "powder kegs" from propagating nationally. I ask that my colleagues support the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I am prepared to accept the amendment if we can go ahead and conclude it at this moment.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman. I am willing to accept the chairman's acceptance.

Let me just say, Mr. Chairman, that this amendment speaks to the whole question of protecting our borders in an authorized manner. There seems to be an effort to do it in an unauthorized manner, and I desire to protect those who need protecting. I would ask my colleagues to support this amendment and, as well, I do want to acknowledge that the work that we have done with staff, I want to appreciate it and I hope the Members will consult with their staff on amendments when Members do consult with the Members' staff and that their amendments are in order.

With that, I ask my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2006''.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 14 offered by the gentleman from New Jersey (Mr. MENENDEZ), Amendment No. 1 offered by the gentleman from Colorado (Mr. TANCREDO), the amendment offered by the gentleman from New York (Mr. MEEKS), and the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 14 OFFERED BY MR. MENENDEZ

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) on which further proceedings were

postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 198, not voting 10, as follows:

[Roll No. 176]

AYES—225

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Bradley (NH)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Fossella
Frank (MA)
Gerlach
Gilchrest
Gingrey
Gonzalez
Gordon
Granger
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
King (NY)
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Platts
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wilson (NM)
Woolsey
Wu
Wynn

NOES—198

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gohmert
Goode
Goodlatte
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryun (KS)
Sabo
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Visclosky
Walden (OR)
Walsh
Wamp
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—10

Ackerman
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Miller (FL)
Payne
Wexler
Young (FL)

□ 1713

Ms. FOXX, and Messrs. HOBSON, NEUGEBAUER, MORAN of Virginia, NUSSLE, Mrs. JOHNSON of Connecticut, Mr. THOMAS, and Mr. GOHMERT changed their vote from ''aye'' to ''no.''

Ms. PELOSI, and Messrs. GREEN of Wisconsin, WELLER, GUTIERREZ, GILCHREST, SCHWARZ of Michigan, RAMSTAD, and Mrs. JONES of Ohio changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 1 OFFERED BY MR. TANCREDO

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 165, noes 258, not voting 10, as follows:

[Roll No. 177]

AYES—165

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Carter
Chabot
Coble
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Doolittle
Drake
Dreier
Duncan
Emerson
Everett
Feeney
Flake
Foley
Forbes
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Hayes
Hayworth
Hefley
Herger
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kelly
King (IA)
Kingston
Kline
Kolbe
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Norwood
Nussle
Otter
Paul
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Price (GA)
Putnam
Radanovich
Ramstad
Rehberg
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Upton
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf

NOES—258

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Chocola
Clay
Cleaver
Clyburn
Cole (OK)
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings

Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gilchrest
Gonzalez
Gordon
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hensarling
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (NY)
Kirk
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Northup
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rahall
Rangel
Regula
Reichert
Reyes
Reynolds
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Sherman
Sherwood
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weller
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—10

Ackerman
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Miller (FL)
Payne
Wexler
Young (FL)

□ 1723

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MEEKS OF NEW YORK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. MEEKS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 223, not voting 11, as follows:

[Roll No. 178]

AYES—199

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berry
Bishop (GA)
Bishop (NY)
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Burton (IN)
Butterfield
Capps
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doolittle
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Fossella
Frank (MA)
Gohmert
Gonzalez
Gordon
Green, Al
Green, Gene
Gutierrez
Hall
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
King (NY)
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Linder
Lipinski
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Paul
Pelosi
Peterson (MN)
Petri
Pitts
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Reynolds
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Slaughter
Smith (WA)
Snyder
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sweeney
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOES—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berman
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Grijalva
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McKinney
McMorris
Mica
Miller (MI)
Miller, Gary
Moore (WI)
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Pearce
Pence
Peterson (PA)
Pickering
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schiff
Schwarz (MI)
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Solis
Stearns
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—11

Ackerman
Bonilla
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Miller (FL)
Payne
Wexler
Young (FL)

□ 1732

Mr. SNYDER changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MILLER of Florida. Mr. Chairman, I would like to offer a personal explanation of the reason I missed rollcall votes Nos. 176–178 on May 17, 2005. These were votes on amendments to H.R. 2360 The Department of Homeland Security Appropriations bill for FY 06. due to personal circumstances I was detained until after these votes had concluded.

If present, I would have voted rollcall Vote No. 176, the Menendez Amendment ''no''; rollcall Vote No. 177, the Tancredo Amendment ''aye''; rollcall Vote No. 178, the Meeks (NY) Amendment, ''no.''

AMENDMENT OFFERED BY MR. OBEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. OBEY) on

which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 198, not voting 9, as follows:

[Roll No. 179]

AYES—226

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Filner
Fitzpatrick (PA)
Foley
Ford
Frank (MA)
Gerlach
Gillmor
Gohmert
Gonzalez
Gordon
Green (WI)
Green, Al
Green, Gene
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Petri
Platts
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn
Young (AK)

NOES—198

Aderholt
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Emerson
English (PA)
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Granger
Graves
Grijalva
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCrery
McHenry
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryun (KS)
Saxton
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf

NOT VOTING—9

Akin
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Payne
Wexler
Young (FL)

□ 1741

Mr. BOEHLERT changed his vote from ''aye'' to ''no.''

Mr. OTTER and Mr. EVERETT changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

Mr. ROGERS of Kentucky. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PUTNAM) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Pursuant to House Resolution 278, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 1, not voting 8, as follows:

[Roll No. 180]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode

Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—8

Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Payne
Smith (WA)
Wexler

□ 1805

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal business in my district prevents me from being present for legislative business scheduled for today, Tuesday, May 17, 2005. Had I been present, I would have voted "no" on rollcall No. 174, on ordering the previous question; "no" on rollcall No. 175, H. Res. 278, a resolution providing a rule for the consideration of H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006; "aye" on rollcall No. 176, an amendment offered by Rep. ROBERT MENENDEZ of New Jersey; "no" on rollcall No. 177, an amendment offered by Mr. TANCREDO of Colorado; "aye" on rollcall No. 178, an amendment offered by Mr. MEEKS of New York; "aye" on rollcall No. 179, an amendment offered by Mr. OBEY of Wisconsin; and "aye" on rollcall No. 180, final passage of H.R. 2360, The Department of Homeland Security Appropriations Act for Fiscal Year 2006.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the record and regret that I could not be present today, Tuesday, May 17, 2005, to vote on rollcall vote Nos. 174, 175, 176, 177, 178, 179, and 180 due to a family medical emergency.

Had I been present, I would have voted: "No" on rollcall vote No. 174 on Ordering the Previous Question on H. Res. 278, providing for consideration of H.R. 2360 making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; "No" on rollcall vote No. 175 on Agreeing to the Resolution as Amended on H. Res. 278, providing for consideration of H.R. 2360 making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; "aye" on rollcall vote No. 176 on an Amendment to H.R. 2360 to increase funding (by transfer) by $50 million to State and local governments for the defense of chemical plants by first responders; "No" on rollcall vote No. 177 on an Amendment to H.R. 2360 to prevent the use of funds in contravention of a provision in the illegal Immigration Reform and Immigrant Responsibility Act (PL 104–208) that prevents Federal, State or local government officials from prohibiting or restricting government agencies or officials from sending or receiving information to Federal immigration officials regarding an individual's immigration status; "aye" on rollcall vote No. 178 on an Amendment to H.R. 2360 to insert anew section at the end of the bill to prohibit the use of funds from being used to close any detention facility operated by or on behalf of U.S. Immigration and Customs Enforcement that has been operational in 2005; "aye" on rollcall vote No. 179 on an Amendment to H.R. 2360 to insert a new section at the end of the bill to direct the Secretary of Homeland Security to make grants to assist States in conforming with minimum drivers' license standards by appropriating $100,000,000. For taxpayers with adjusted gross income in excess of $1,000,000, the amount of tax reduction shall be reduced by 1.562 percent; and "aye" on rollcall vote No. 180 on final passage of H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. Doc. No. 109–27)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the *Federal Register* for publication, which states that the Burma emergency is to continue beyond May 20, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on May 19, 2004 (69 FR 29041).

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma that led to the declaration of a national emergency on May 20, 1997, has not been resolved. These actions and policies, including its policies of committing large-scale repression of the democratic opposition in Burma, are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 17, 2005.*

ELECTION OF MEMBER TO COMMITTEE ON THE BUDGET

Mr. GUTKNECHT. Mr. Speaker, I offer a resolution (H. Res. 281) and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 281

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives:

Committee on the Budget: Mr. Chocola.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NAFTA LESSONS FOR CAFTA

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, much like its elder cousin NAFTA, CAFTA has promised to raise the standard of living in its poorest member countries. But thanks to NAFTA, we already know how this story ends.

A typical Central American earns only a small fraction of an average American worker's wage. More than 40 percent of workers in the region labor for less than $2 a day, placing them below the global poverty level.

Mexico now ranks as one of the world's 10 largest economies. Its overall wealth has increased since passing NAFTA, and, unfortunately, so has its poverty. It is said, ''a rising tide lifts all boats.'' This is not the case for the poor in Mexico and will not be the case for the impoverished people in the Western hemisphere's poorest nations.

For this and other reasons, I encourage my colleagues to join me in opposing CAFTA.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

(Mrs. MCCARTHY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

SMART SECURITY AND HOMELAND SECURITY VS IRAQ'S SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, minutes ago the House approved the fiscal year 2006 Homeland Security appropriation bill to the tune of, underwhelmingly, $37 billion. In a vacuum, $37 billion sounds like a lot of money, and it is, but when you consider that Congress has appropriated over $100 billion on the security of Iraq this year alone, and more than $200 billion overall, $37 billion sounds much less significant. In fact, the $37 billion spending bill that was approved today represents less than 5 percent of the U.S. annual discretionary budget. Yet the Iraq war this year, this year alone, represents well over 10 percent of our annual discretionary budget.

Clearly, something is wrong with this picture. Spending on homeland security, while inadequate in its amount, focuses on the right things to protect America: First responders, border and port security, and cargo inspections. On the other hand, funding for the war in Iraq continues to focus on poorly planned military operations and irresponsible no-bid contracts to war profiteers like Halliburton and its subsidiary Kellogg, Brown & Root.

At the same time, the Iraq supplemental spending bill of over $200 billion has neglected to provide adequate funds for body armor for the troops. This is a particularly egregious mistake in light of the 2004 study indicating as many as a quarter of all troop deaths could have been prevented if the most advanced body armor had been provided to every single soldier in Iraq.

It is important to note the irony in our funding priorities. The Homeland Security budget, which is vitally important towards ensuring the safety of the American people, is drastically underfunded. On the other hand, the Iraq war, which was a war of choice, not a war of necessity, is so overfunded that last year $9 billion in reconstruction funds went missing. Nine billion dollars. That is more than a quarter of this year's homeland security budget.

And let us not forget another more recent report by the Special Inspector General for Iraq's reconstruction. This report states that another $100 million for reconstruction projects in southern Iraq is also missing and cannot be accounted for.

Mr. Speaker, we need to focus our spending on programs and policies that will help ensure the safety of the American people. The war in Iraq will not make Americans safer, because this conflict is causing the United States to be perceived by the Muslim world as a colonial occupier, not as a liberating force. This perception, combined with our continued military presence in Iraq, has assisted radical Muslim terrorist groups like al Qaeda in their recruiting efforts. The result is that 3½ years after September 11 Americans are less safe.

Fortunately, there is a way to achieve sensible spending while also keeping America secure. Over the last 2 years, I have developed the SMART Security Strategy for the 21st Century. SMART is a sensible multilateral American response to terrorism. SMART Security urges a shifting of America's budget priorities to more effectively meet our national security needs. That means spending more money on port security, cargo inspections and airline security, and less money on warfare, outdated weapon systems, and new nuclear weapons.

□ 1815

Instead of funding continued military operations in Iraq, the SMART platform would encourage other nations to work with the United States and spend more money on peacekeeping, on reconstruction and developmental aid to ensure long-term peace and stability in the Middle East.

In fact, it has been proven when debt relief increases, terrorism and the conditions that give rise to terrorism tend to decrease. That is why the SMART platform encourages wealthy nations to provide debt relief and developmental aid for the world's poorest countries. After more than 2 years of fighting, it is clear that the war in Iraq cannot be won through military means. We need to be smarter. We need to be smarter than the terrorists, not just bigger and stronger.

The fight to secure our country must be fought on more than the battlefield. We must be smart in the way we prioritize our national spending by focusing on true security needs instead of superficial security needs. Homeland security is a true security need. Let us remember the next time President Bush asks for money for Iraq, which I understand will be sometime this summer, we need to know which is secure and which is not.

COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise tonight to talk about the price of prescription drugs here in the United States compared to what consumers pay in other industrialized countries in the world.

I have some charts with me tonight because I want to point out some differences. There are several that I think are important. This is a chart, and some numbers are hard to read. These are 10 of the most commonly prescribed drugs in the United States. We have Nexium and Norvasc and Zyrtec and Zocor. I want to point out Zocor, we have a price, and these were all done just in the last few months. We have a price from the Metropolitan Pharmacy in Frankfurt, Germany and a local pharmacy in Rochester, Minnesota.

If we total all of these drugs for a month's supply, in Frankfurt, Germany, they would cost $455.57 in U.S. dollars. Also in U.S. dollars in the United States, the price of those same drugs, those same 10 best-selling prescription drugs would be $1,040.04. Over the last year, the value of the dollar has declined by about 20 percent. We thought the differences we pay in the United States and what our German friends pay would have gotten less. We

were surprised to learn that the differences have gotten worse.

For example, Zocor, a very commonly prescribed drug for people who have some heart problems or problems with their circulation, Zocor in the United States on average sells for $85 for a month's supply. In Germany you can buy that drug for $23.83.

Mr. Speaker, what is interesting about this story is that one of my colleagues came up to me and he saw this chart. He said, I take Zocor. I said how much do you pay for it. He said a copay for a U.S. Congressman for that Zocor is $30 here in the United States. You can walk in off the street to the Metropolitan Pharmacy in Frankfurt, Germany and pay $23.83, and the Germans think they are paying too much for prescription drugs.

Mr. Speaker, I am holding in my hand two boxes of Celebrex. They are exactly the same. They come from the same plant. If you bought this box of Celebrex in the United States, you would pay more than double what you pay for the same drug in Germany.

Now, I think Americans are willing to, and I speak on behalf of most Americans, we understand there is a cost to develop these drugs. There is a cost to market these drugs. Unfortunately, there is too much being spent on advertising, but I am not one who says they should not be able to advertise. But I believe Americans ought to have access to world-class drugs at world-market prices. I am asking my colleagues to join me in supporting, and I have another chart that is easier to read, compare London to Athens to the United States. We now have pharmacists from around the world who regularly send us their prices for the drugs.

In almost every case, it is less than half what we pay in the United States. These same five drugs, Lipitor, Nexium, Prevacid, Zoloft, and Zyrtec, those five drugs in London, $195.95. In Athens, $231.04; but here in the United States, $507.96.

Mr. Speaker, I ask Members to please join me in cosponsoring H.R. 328, the Pharmaceutical Market Access Act of 2005. It is time to make clear that Americans have access to world-class drugs at world-market prices.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GENE GREEN) is recognized for 5 minutes.

(Mr. GENE GREEN of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

AIRPORT COMPETITION IN DALLAS-FORT WORTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MARCHANT) is recognized for 5 minutes.

Mr. MARCHANT. Mr. Speaker, I rise today to speak in support of a law which has fostered spectacular growth and vitality in my district and throughout all of north Texas. That law, which has become known as the Wright amendment, was passed in 1979 to settle for all time a controversy on how best to achieve robust competitive airline competition in the Dallas-Fort Worth area.

It has worked and continues to work beyond all expectations, but the benefits it has brought can easily be undone. Given all of the turmoil in the airline industry and the limited time for Congress to get important business done, any serious effort to change the current law would be a misuse of our time and resources.

Since the issue has been in the news lately and Members have been approached with very simplistic answers on the surface, compelling arguments about the Wright amendment, I want to put some facts into the RECORD.

In the late 1960s, the cities of Dallas and Fort Worth, at the urgings of the Civil Aeronautics Board, agreed to end the fragmentation of air service in the region and invest in a single regional airport that could serve all of the people in the area. At the time, everyone knew a new airport would not work unless there was an absolute commitment by all parties to consolidate all the service from the various local airports in the area into the new facility, which became known as the Dallas-Fort Worth International Airport.

The two communities and all carriers offering interstate service from the existing airports agreed on this course of action. However, one carrier that at that time offered only interstate service from Dallas' downtown airport, Love Field, refused to do so.

This led to a long and protracted and bitter legal battle between the communities and this carrier, which ultimately resulted in a carefully negotiated compromise. This compromise encompassed into Federal law to preserve it was exactly constructed to reflect the intent of the communities as well as the desires of the interstate carrier.

Reluctantly, the civic parties agreed to allow the one carrier that had refused to move to the DFW Airport to operate out of Love Field to and from points within Texas or to its four contiguous States. That carrier agreed to the Wright amendment as a way to settle the issue for all time.

Last week, the highly respected global aviation consulting firm, Simat, Helliesen & Eichner, released an omnibus report which predicts devastating consequences to the Dallas-Fort Worth Airport if the Wright amendment were to be repealed. I will submit the report for the RECORD; but it predicts if the Wright amendment is repealed, DFW could lose 204 flights a day, 21 million passengers annually, and slash DFW passenger traffic back to levels seen 20 years ago.

Mr. Speaker, health in the airline industry is dependent on healthy competition between airlines. In contrast, competition between very closely located airports can be destructive. The communities of Dallas and Fort Worth understood this when they agreed to end, or restrict, commercial air traffic to their local airports. DFW was built to accommodate any and all carriers, and over the years it has attracted both network and low-cost carriers.

Just as importantly, by limiting traffic at the neighboring airports, DFW was able to compete among airports and now is the fifth largest airport. Think of it this way. Almost everyone would agree it would improve competition to have 30 airlines competing against each other, but no one would suggest it would be healthy to have 30 airports competing against each other. Just like two major shopping centers will die if located next door to each other, two airports located only 12 miles apart, as are in Dallas, Love Field and DFW will provide two weaker airports.

Let us be perfectly clear. Restriction at Meachem and Love Fields were not put in place to give DFW a jump start. No one said, We will invest billions of dollars in a huge international airport and domestic hub airport until it is successful and then we will undercut the very source of its success by reopening the airports that we closed to make it so. That does not make good business sense.

Mr. Speaker, DFW is what it is today because it is the only airport in the metroplex that passengers can use to fly anywhere in the world. Moreover, it has not achieved the success it has by being anticompetitive. On the contrary, it has always welcomed all comers. DFW currently has gates available and is seeking new airlines.

Love Field was never meant to be a competitor to DFW. In fact, DFW would probably have never been built and the tens of thousands of jobs and the billions of dollars of economic stimulus it has given Dallas-Fort Worth would never have been realized

if Love Field had remained an unrestricted airport. The best proof of that statement is evidenced by the 21 empty gates currently vacant at DFW. Despite any attractive incentives, DFW has been unable to attract new, low-cost tenants because of the discussion of repealing the Wright amendment.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the majority leader.

Mr. MEEK of Florida. Mr. Speaker, once again it is an honor to address this great House of Representatives. I want to thank not only the Democratic leader but the Democratic leadership for allowing me to be here on their behalf.

Our 30-something Working Group, which the gentlewoman from California (Ms. PELOSI) put together in the 108th Congress, our focus is to work on issues that are facing not only young Americans but Americans in general. I think it is very, very important for us to state not only here on the floor but to also say in our communities and the workplace that there is no greater service than making sure that your children and grandchildren have a better opportunity than what you have had. That is kind of the unwritten statement for the 30-something Working Group. We are benefactors of the generation that allowed us to have better opportunities than what they have had. I think that is what makes our country great. I commend those Members that live with that philosophy.

But I think it is important in a time of judgment and a time that we all have to be leaders that we stand up, not only stand up, but inform the American people and future generations on what is going to happen good for them and in many cases what may not work out the way that is being portrayed here in the Congress or any issue that we are talking about here, that we are taking action on here in Washington, D.C.

There are a lot of good things that families are doing for one another to make sure that future generations and their bloodline have a better opportunity than what they have had. There are families that are trying to save money with a college plan or savings plan for their children to receive education for their bloodline for the first time. Some families that only made it after a 4-year experience stopped at an associate's degree or a bachelor's of science degree, and want their children or a family member to be able to receive a master's degree or a doctor's degree.

□ 1830

It is that individual in the middle of America that wants his or her son or daughter to be able to carry the family business further than they were ever capable to carry it. I know that it is in the fiber of our American Dream that is in our hearts and in our minds.

So when we start talking about the issue of Social Security, we have to say that that is a paramount issue when we talk about values and commitment to our future generations, we talk about value and commitment to those beneficiaries that are receiving Social Security benefits right now. We have to think about those individuals that are disabled that are counting on this Congress to stand up on their behalf, those individuals that elect us to speak on their behalf.

One thing about this body within the U.S. Congress, we cannot be appointed to the House. We cannot be appointed to this position. We have to be elected. The other body can be appointed. We have to be elected. Through the election process, there is a lot of commitment and sacrifice. A lot of Americans, someone woke up early one morning, 7 a.m., and showed up to their election polling place for some accountability. That is what we are here to do.

When we start talking about Social Security, I think it is important that we come to this floor to let the American people know and the Members of this House of Representatives know that many of us within the Congress are very, very concerned about the privatization scheme that is being talked about and that is being portrayed as a plan for future generations, or the preservation of Social Security.

We cannot believe everything we hear, especially when folks start saying, well, these are the facts and this is my plan and this is the way it is going to work. Right now, especially on the Democratic side, and I will say a few of my Republican colleagues understand that 48 million Americans are receiving Social Security right now, that 33 million of those Americans are already retired, 33 million that are counting on Social Security. Social Security is that security blanket, our end of the deal that we said we would hold, they paid into it, it is there for them and it will be there for them for the next 5, 10, 15, 20, 25 years at the same level that it is right now.

Of course we want to strengthen Social Security. Also, it is important to understand that right now, today, $955 per month on average goes out every month to support families and support their unmet needs. This is not a giveaway. This is what they paid for. This is what they invested in. It is important that we do not gamble with those dollars. I think it is also important to understand that 48 percent of Social Security beneficiaries, if they did not have Social Security, they would be living in poverty today.

So, Mr. Speaker, I cannot help but have trouble with the administration's plan and some Members on the Republican side's plan to privatize Social Security and to say and admit up front that benefits will be cut and that they would not only receive a benefit cut but even those who do not want to go in a private account will suffer.

I cannot understand for the life of me how we can serve that up on a platter and say that we are trying to help future generations or present enrollees in Social Security right now. I cannot help but question $5 trillion. Until I got to the Congress, I had no meaning of what $5 trillion actually meant, $5 trillion, not of money that we have in our wallets but money that we are willing to borrow, $5 trillion. But better yet, this is supposed to help maintain Social Security.

I am going to talk a little further about what we are doing as Democrats, but I would like to yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Florida for yielding. I actually want to commend him because I see him week after week on the floor leading the group under-30 as they demonstrate that you do not have to be a senior citizen, that you do not have to be old and elderly, you do not have to have been here 25 years to have impact on this body. And so I thank the gentleman from Florida for yielding, but I also commend him for his leadership and for his position as he talks about Social Security, one of the great programs that has bolstered the quality of life for people in our country.

I actually grew up in a rural community in Arkansas before moving to Chicago, and we had a saying there, that if it ain't broke, don't fix it. They would oftentimes be talking about farm machinery and other kinds of things.

While Social Security is not quite the same, the reality is if it is working for millions and millions of people, if it has been the only thing that has stood between our senior citizens in many instances and absolute poverty, then it sounds to me like it ain't really broke. And while it might can be adjusted just a little taste, we may have to put some money in, I do not think it is broken, and I do not think we need to fix it.

GLOBALISM HITS THE CHICAGO LIGHTHOUSE FOR THE BLIND

I want to take just a few minutes, if I could, and talk about something else for a minute, that is, about an industry in my congressional district that is being squeezed by our trade policy, by globalism, by outsourcing and all of the things that we seriously have to look at. That industry is the Chicago Lighthouse Industries. They have made clocks for the Federal Government for the last 28 years. They have been consistent and diligent in their performance. Since 1977, the Chicago Lighthouse made 3.3 million clocks. In fact, last year they made 104,000 clocks for all branches of the military, Energy Department, Postal Service, and the Justice Department.

The unique thing about the Chicago Lighthouse is that they employ more than 40 people who are blind or visually impaired. They employ their workers at a salary of $8.50 an hour and provide health benefits. On a recent visit to the Chicago Lighthouse, I was amazed at the level of detail and speed at which the workers developed the clocks. They have an assembly line that produces and packages 1,000 wall clocks a day. And, of course, they are blind. They are visually impaired.

In fact, Rita McCabe can assemble a 12-inch clock in less than a minute. Ms. McCabe, who is blind, found her job through the Chicago Lighthouse. When asked how she felt about her job, she stated the following: ''It gives me a chance to be with people, to make a living on my own, and to prove that I'm competent enough to do this kind of work.'' Ms. McCabe has worked for the Chicago Lighthouse for 25 years.

Rita McCabe's job is in jeopardy due to competition from foreign sources. In the past 4 years, U.S. imports of wall clocks, most of them from China, have increased by 24 percent, totaling $123 million in 2003. The Chicago Lighthouse does not mind competition. They have suggested that they can compete with anybody as long as the rules are the same. Unfortunately, the playing field is not level when it comes to competing with China and other countries that do not have a minimum wage requirement or pay health benefits to their workers.

The Chicago Lighthouse, though, pays its workers an average of $8.50 an hour plus health benefits. It is not uncommon in China for workers to make $2 an hour and have no benefits. China is able to undercut clock manufacturers like the Chicago Lighthouse for the Blind because they do not play by the same rules. They are able to send their products into the United States at a cheaper price. This adds to the trade deficit that currently exists. More importantly, to allow foreign governments who do not pay minimum wage or a livable wage, nor provide benefits, to continue to undercut U.S. companies like the Chicago Lighthouse erodes the faith that citizens have in government and puts too many jobs at risk.

The Chicago Lighthouse is not asking for preferential treatment. They are just seeking fundamental fairness. The Chicago Lighthouse has been in existence now for 99 years. They have done something right to be able to survive.

The Federal Government as a result of the Javitz-Wagner-O'Day Act is required to show favor towards the Chicago Lighthouse and other industries like it when purchasing clocks through the General Services Administration. However, this law has been eroded and many Federal purchasers are going for the lower-priced clocks. Obviously, these are the clocks that are being produced through cheaper labor costs. The Federal Government must set the example and ensure that taxpayer money is going to support those industries and businesses in our country and not going to other countries who take the benefit of our outsourcing policy.

Everything comes at a price. The workers at the Chicago Lighthouse are able to be productive, tax-paying citizens because of their jobs. These jobs help support them. And so I simply want to have us understand and recognize that when we make a trade policy, when we are outsourcing, when we are always looking for the cheapest price, when we are always looking for the most cost-efficient way of doing business, we also better look at the needs of our people and we better look at the needs of the people in our communities to provide opportunities for blind people to work, to have dignity, to have pride, to have a sense of self-worth. We should not let anything erode that. We should not let anything take that away.

I would urge us as we purchase, as we continue to purchase clocks, as we make trade policies, that we remember something the Bible says: ''Where there is no vision, the people perish.'' And some people can see, but have no vision. Sometimes our policies reflect the ability to see, but not in a visionary way.

So, please, America, let us not put the people at the Chicago Lighthouse for the Blind out of work. Let us keep them working and hopefully all of the rest of us will be able to see.

I thank the gentleman again so very much. I really appreciate the gentleman giving me the opportunity to cut into this under-30 group's time. It has been a long time since I have been under 30, but it is just a pleasure to be here with the gentleman, and I thank him so very much.

Mr. MEEK of Florida. Mr. Speaker, I just want to say before I comment to what the gentleman from Illinois just said, I want to commend him for coming to the floor, not only representing his great district but representing some great Americans that are doing what they can under the circumstances. I have a similar program in my district, Good Will Industries, providing uniforms for our men and women that are in uniform, sewing together jackets. They are handicapped, some physically handicapped, mentally handicapped, many; but they are trying, and we have got to give them an opportunity to play a role in working America.

Another thing I want to also point out, and I know that the gentleman from Ohio (Mr. RYAN) is here, is that the gentleman from Illinois is talking about working Americans, not folks sitting at home talking about where's my check. These are individuals that wake up every day and want to wake up every day and go and be productive. That is what this is all about. That is what our democracy is about.

It was a pleasure yielding to the gentleman. He is one of the most outstanding orators that we have in the Congress.

Mr. DAVIS of Illinois. The next time you are in Chicago, I have just got to bring you by so that you can go and see the Chicago Lighthouse for yourself. And we will bring the gentleman from Ohio along with us.

Mr. MEEK of Florida. I look forward to that. Just not in the winter time, that is all I have to say, because I am from Florida. I do not know about all Chicago, holding on to the ropes and the wind blowing and everything. I love Chicago. I thank the gentleman from Illinois for standing up for those great Americans.

□ 1845

Mr. Speaker, I am so glad that the gentleman from Ohio (Mr. RYAN) is here. And we are, I tell the gentleman from Illinois (Mr. DAVIS), the 30-something Working Group; so he can be 30-something, not under 30 or I think I would not be with this group. I would be with them in spirit.

Mr. Speaker, I was just talking here for a moment about the whole issue of a bad privatization scheme and throwing the dice on the retirement of so many not only Americans that are presently receiving Social Security benefits, and I am not just talking about retirees. We are talking about disabled Americans. We are also talking about those individuals who are going to school and surviving on survivor benefits of Americans that have passed on. They paid into Social Security. They knew there were survivor benefits for their kids. And one can ask even those Americans and those of us in the Congress that were pension funds outside of this Congress and we know what happened to our pension fund. It went straight down.

The gentleman from California (Mr. GEORGE MILLER) our ranking member on the Committee on Education and the Workforce, said just today that airline pilots who were receiving $12,000 a month in pension benefits, now it is down to $2,000 a month. That is a $10,000 difference in their retirement. So now we are going to do that with Social Security? Even for those individuals who do not enroll in the program, they are still going to get benefit cuts. They still receive benefits cuts. And, also, the dollars that are needed to support them in their time of need.

So it is a great pleasure once again being with my good friend from Ohio and the fact that we come to this floor along with the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), the gentleman from Alabama (Mr. DAVIS), and others to share with Americans about what we are working on here in the Congress.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding to me.

I think it is appropriate for us tonight to kind of take another tack, a little more specific. We know that the President's privatization plan for the Social Security system is a bad one. It means benefit cuts across the board to the tune of 40 percent for most. Under the President's plan, middle-class workers earning $58,000 a year would be hit with a 42 percent benefit cut. And the gentleman from Alabama (Mr. DAVIS), who was here last week, said very eloquently that this Social Security system is a system that is put together and was put together to solidify the country and to talk about our common interests, our common goals, and our common humanity, and how we have an obligation in this Congress to maintain that system and not to say and begin to promote the kind of attitude that says, hey, everybody is on their own. They go here and they make the kind of money that they want. They invest in the stock market, and if they go belly up in the stock market, they are on their own. And that is basically what the President's plan says.

We have a system that works, a system that is a safety net for many American people who have struggled. But the point I think we need to make tonight, which we have touched upon over and over and over again, is the issue of jobs in the United States of America. If we are not participating in an economy that is growing, there are not going to be the kind of resources put into the program.

I was at a town hall meeting on Social Security a couple of weeks ago, and I had a lady stand up, my age, and say ''I do not want to put 4 percent of my Social Security taxes into a private account'' because she figured out the math. She makes $19,000 a year. Four percent of $19,000 a year is not enough to retire on even if the stock market is going gangbusters.

So this may sound nice to have private accounts. If one is making $150,000 a year, they know how to invest their money. They know how to pull it out and put it back in. The President's plan does not allow that. So if we say the same exact thing to someone who is making $19,000 and they are allowed to invest their 4 percent of $19,000 a year, there is not going to be enough there for them to retire, and they are going to lose their Social Security benefit.

This is a risky proposition, and it is why only 30 percent of the American people are saying this is a good idea. It makes me become more and more aware and concerned that this is a whole ploy. While we are cutting food stamps and we are cutting Medicaid, we have the whole country having this debate about Social Security over here. And we do not want to talk about what is going on in Iraq, and we do not want to talk about the kind of cuts that are being made in the veterans' health care program. We have to keep the discussion on an issue that is highly volatile and has been known to be a third rail of politics.

Now, I want to share with the American people and our friends who are here tonight a chart. We are talking about jobs and job creation in the country. This chart shows the U.S. trade balance in goods, durable goods. This goes from 1979 to 2004. In 1979 we had a trade deficit of $24 billion, in 1979. And we do not really need to see the numbers. We just need to see the bars. And it slowly got worse, got better in the early 1990s and then the dipsy-do all throughout the 1990s. But in 1998 our trade deficit in goods got to $230 billion. That was in 1998. And then from 1998 to 2004, a $651 billion trade deficit in the United States of America. We are buying $651 billion more worth of goods than we are selling.

If we want to fix Social Security and we want to have enough money in our local communities to fund our schools and our libraries and Medicaid at the State and Federal level, we need to fix this problem, or we are never going to have enough money to do anything. Four percent of whatever one wants to put in their side account is never going to be enough because we are going to have more people for 19 and 20 and $30,000 a year than we are for 70 or 80 or 90. And this is the main culprit.

And today Secretary Snow came out with the weakest report on the Chinese currency manipulation that we have ever seen and basically gave the Chinese a free pass when they are manipulating their currency by 40 percent. That is why this number looks like it does.

I am going to get the other chart out here that is dealing with annual trade with China. There are three different graphs here. The gold graph, the gold line, with the blue dots is what we are importing from China. This starts off in 1985; it ends up in 2004. The blue line is what we are exporting to China, and then the trade balance. What we are importing from China is going through the roof, $200 billion of goods coming into this country. We are exporting to China virtually nothing. The trade gap just with the Chinese is $162 billion; $162 billion we are buying from the Chinese without the ability to sell.

Mr. MEEK of Florida. Mr. Speaker, the gentleman from Ohio's (Mr. RYAN) point as it relates to pointing out the trade deficit is the fact that Americans, if we allow hypothetically, and I do mean hypothetically, in this Congress a privatization plan to go through this Congress the way the President and majority side would like to see it happen, then they are going to get a double whammy. They are getting a double whammy of not having high-paying jobs. And this is not just me talking. Folks can go to a number of third-party validators and even the White House itself said there will be drastic benefits cuts, benefits cuts to the tune of if someone is earning $37,000, they are going to get a 28 percent benefit cut than what they are experiencing right now. At $58,000, they are going to get a 42 percent benefit cut, and on and on and on. So there will be benefit cuts, and we have put that up front, and there will be a great gamble on the future of Social Security.

So I am really pleased that the gentleman brought those charts because folks really need to understand, and this is from the U.S. Census Bureau. That is where he received that information.

Mr. RYAN of Ohio. We are not making this up, Mr. Speaker.

Mr. MEEK of Florida. This is not the ''Tim Ryan Report.''

Mr. RYAN of Ohio. This is not the ''Kendrick Meek Report.''

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I just want to make sure because we point out when there is inaccurate information out there. And some of our friends here in the Beltway, which is Washington, D.C. they have an imagination about what the truth is about. We talk a lot about what the truth really is. We talk a lot about the $350 billion so-called prescription drug plan that is supposed to help Americans, and now it is $724 billion, but we were told $350 billion when it first started. So the President is saying $5 trillion on a privatization plan. What is it going to be next year? Is it going to be $10 trillion?

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will continue to yield, he brings up a great point because over the next 10 years, and I do not know if he said this before I arrived, in the next 10 years we are going to have to borrow $2 trillion to fund this privatization scheme. Over the next 20 years we are going to have to borrow $5 trillion. This is billion. We have to borrow $5 trillion to fund this privatization

scheme. So it is just brilliant that he brought that up in such a timely fashion because it ties into this.

As we are running a $162 billion trade deficit with the Chinese at the same time that they are stealing our manufacturing, stealing our jobs, we are borrowing the money right now for our annual deficit that we have, from the Chinese, $500 billion.

So what do we have to do to fix this problem? One, we have to balance the budget. But if we are already borrowing $500 billion from the Japanese and the Chinese, why would we then go out and say let us go borrow another $5 trillion to roll the dice on and play roulette?

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, that is the problem. This Social Security, it is not some small little program that a Member of Congress put in the budget and said this is our pet project. This is Social Security. This goes towards our generation for our children and grandchildren, and I hope to have them some day, grandchildren. I want them to have a better opportunity.

The gentleman from Illinois (Mr. DAVIS) came to the floor to talk about those individuals putting together clocks in his district, the Lighthouse Project. I yield to him, from the 30-something Working Group hour, to give him an opportunity, and he did not come here saying we need to create a program for people who do not want to work. We need to make sure that Americans, and he is talking about blind Americans, are able to continue to support themselves.

Remember, Mr. Speaker, 33 million Americans are retired, receiving Social Security benefits now. Forty-eight percent of the 33 million would be living in poverty if it was not for Social Security. And they have a plan that comes up here to the Hill. And I would not call it a plan. I would say it is some sort of philosophy or theory that the White House and majority side have.

And I would also like to say, Mr. Speaker, we know that we have friends over there, few in number, on the Republican side that are willing to stand up and say, I am not with you on this.

□ 1900

And if you bring it to the floor, I am going to vote against it, rightfully so. Do we know why? Do we know why it is not on the floor tonight? Because I believe, just like the American people know and just like many Members of this House know, it is not because we are Democrats and we are right; we are Democrats and we are willing to stand up to say what is right for Social Security. This is not a political issue; this is an American issue.

So when we start talking about what people are saying here on the floor as it relates to the majority side, we do know we were given that prescription drug number, $350 billion, it ended up being $724 billion and climbing, and still did not put forth a plan where we can combine buying power and take the price down for seniors.

Mr. RYAN of Ohio. Mr. Speaker, that is exactly right. We are going on the record of what this administration has consistently told us and told the American people, and the gentleman is exactly right. With the prescription drug benefit we were told it was $350 billion, then it became $400 billion, we passed it at 3 in the morning here. Then a month or two later, after the election, it turned out to be $700 billion, and then it went to $1.1 trillion. When we passed it, it was $400 billion. And someone in this administration told the actuary who had the real numbers, do not tell Congress.

Wait a minute. That is not telling the American people. I represent 700,000 people; the gentleman represents 700,000 people.

Mr. MEEK of Florida. And change.

Mr. RYAN of Ohio. They withheld the administration from your constituents and my constituents, and we made a faulty decision here on the House floor where many Members would not have voted for it. When we go back and look at the war, what we were told about the war: we are greeted as liberators, we will use the oil for reconstruction and it will only cost us $50 billion when we have already over $300 billion invested in the war; all of these things that turned out not to be true.

Here we are today being promised a scheme that we have to borrow $5 trillion to implement. It is bad enough we have to borrow it and pay it back; we have to pay the interest on it too. Talk about sticking it to the next generation.

Mr. MEEK of Florida. Mr. Speaker, let me just say this. We are both going to be in the Committee on Armed Services tomorrow late into the night marking up or creating the Committee on Armed Services for the United States of America authorization bill to protect the American public, to make sure our men and women that are in harm's way get what they need, to make sure that we do all of the things that we need to do to defend this country, adding $5 trillion to the debt and making decisions that should not be made.

And I just want to say, at the end of the legislative business of every week, we have our whip, the gentleman from Maryland (Mr. HOYER) come to the floor with the gentleman from Texas (Mr. DELAY), and they talk about the business of next week and what is going to happen. I hope when it comes down to Social Security that there is a bipartisan effort to not only make sure that we pay for what we do or have a plan to pay for what we do as it relates to borrowing the money that we are going to have to use to make sure that we make Social Security stronger and better, but there is no discussion about, well, next week we are going to talk about private accounts, because that is going to be a sad day in this Congress.

I will also say this, that it is important for people to understand that on the Democratic side, and I mentioned the gentlewoman from California (Leader PELOSI) and the gentleman from Maryland (Mr. HOYER) and the gentleman from New Jersey (Mr. MENENDEZ), who is our chair, and the gentleman from South Carolina (Mr. CLYBURN), who is our vice-chair, and other Members who are here with leadership roles and who have been here before the gentleman from Ohio (Mr. RYAN) and I, before we even thought of a 30-something Working Group; that a bipartisan plan like the gentleman from New York (Mr. RANGEL) speaks of all the time, consists of Democrats and Republicans sitting down, sharing values on behalf of the American people, and putting forth a plan that will preserve Social Security for years to come.

Social Security news flash, I say to the gentleman, because if we listen to what the White House is saying and all of the Federal jet fuel they are burning flying all around the country sharing with people what their side of what they believe the crystal ball may actually provide Social Security benefits to future generations, 47 years from now, 100 percent benefits as we see them now will still be in place. Forty-seven years from now, Social Security will be still be here. Do my colleagues know why? Because in 1983 this House, in a bipartisan way, Tip O'Neill, President of the United States Ronald Reagan, God bless his memory, voted off of this floor 243 to 102 to make sure that Social Security is there for future generations and that it provides benefits to the 48 million, those who are disabled, those who are living under survivor benefits, and those who are retired right now. It took leadership to do that.

So it all comes down to, if some Members of power, and this would not even be a discussion if we were in the majority. It would not even be a discussion, because there will be a panel put together to come up to the Committee on Ways and Means and other committees of substance as it relates to this issue to come together with a bipartisan plan.

And I guarantee my colleagues that private accounts would not even be an issue on the preservation of Social Security. We have always talked about making sure that the Social Security trust fund that has been a Democratic issue from two or three Presidential campaigns, about making sure that Social Security is here for future generations.

Mr. RYAN of Ohio. Lockbox.

Mr. MEEK of Florida. Whatever we want to call it. I will just say that this bipartisan number here, 163 Democrats for it in 1983, 80 Republicans for it in 1983, and Tip O'Neill, the Democratic Speaker of this House was sitting in the Speaker rostrum, Mr. Speaker. It took leadership, and that is what we need now.

Folks ask, I say to the gentleman, what is the Democratic plan. Well, the Democratic plan is in the wallets of every American, the guarantee when they go through their wallet looking for lunch money for their children or looking for bus fare to catch the bus or, as we know, grabbing, unfortunately, for a credit card now versus cash to put gas in your tank, when they pass that Social Security card, what they know now is the fact that they will receive benefits for the next 47 years.

That is the Democratic plan, and the Democratic plan is also making sure in a bipartisan way that we move forward, make sure that we preserve Social Security for future generations, and make sure that we do not hand debt to our future generations.

Mr. Speaker, $5 trillion is an awful lot of money. Once again, on the armed services end, 44 percent of our debt is owned by foreign interests. If we want to talk about the future of this country, if we want to talk about security, if we want to talk about homeland security, if we want to talk about financial security, stability for this country and for the Republic, never before in the history of the Republic has the deficit been as high as it is right now.

Now, I can tell my colleagues, our friends on the other side, and I say the leadership, because I know, some of my good friends do not want this.

Mr. RYAN of Ohio. Not personal. It is not personal.

Mr. MEEK of Florida. It is not a personal issue. And they know it is not a personal issue. They know that bad decisions have been made. They know that the deficit is as high as it has ever been, and climbing. We are so high up in debt right now, I mean, it is just bad. We cannot call these 1–800 numbers we see on the TV saying call us, we will help you with your debt. We cannot even take care of those issues right now, because it is so much and we are so high in debt.

So I think it is important, as we remember 30-somethings and those young Americans who are graduating from college now, Mr. Speaker, they are leaving, on average, $20,000 in debt, $20,000 in debt, the average American that is graduating. Now we are going to put more on them? I think that is something that we should not do, and that is the reason why we come to the floor. That is the reason why we have third, fourth, fifth, and six-party validators for the reason that this privatization plan is nothing but a pure gamble for Democrats, Republicans, Independents, and others that are depending and looking for Social Security when they are in need.

Mr. RYAN of Ohio. Mr. Speaker, the gentleman brought up a great point, and we will share some more information from the Department of the Treasury of the United States of America. This is the national debt, and I believe this is moving. You can go to a Web site, next week we will have to bring the Web site up so you can see, but this is actually always moving: $7.79 trillion in debt that the United States owes other interests. Your share of the debt, I say to the gentleman from Florida, $26,349.

Mr. MEEK of Florida. Not just mine.

Mr. RYAN of Ohio. Not just yourself. Your wife, your kids, my wife, constituents, people watching at home, if you are watching this program.

Mr. MEEK of Florida. Members of Congress.

Mr. RYAN of Ohio. Everybody, $26,300 you owe.

The point I would like to bring up and highlight again is what the gentleman brought up, talking about what college students owe. The average college student owes 20,000 bucks.

Mr. MEEK of Florida. Mr. Speaker, if the gentleman would just yield for one second, not just the college students, but their parents. I want to tell my colleague, when I graduated from college, I went straight into the Highway Patrol Academy. Thank God I had a full scholarship to Florida A&M. But a number of students that go into college, they do not have a scholarship, okay? And they come out owing student loans. And do we know who pays those student loans when they come out? Mom and Dad or Grandmom, to make sure that they do not end up falling into bad debt and also falling into an area where they are going to start off on the wrong foot.

Mr. RYAN of Ohio. Yes, even further behind. So someone out there watching, a parent that has a kid in college, the average college debt, $20,000; average share of the national debt that you owe, $26,000.

And, think about it, if you are having a baby this year and project this number out, if we keep going down the road we are going down, because we already had to lift the debt ceiling in Congress several months ago that raised this even further so the United States could go back out and borrow even more money, so here we have a situation where we owe this, each individual owes this.

Now, if a baby is born today, guess what? They owe this right out of the gate. So project this out, this number, $26,349, project it out 18, 20, 22 years and imagine what that number is going to be if we keep going down the road we are going down now, and then add to that what college tuition costs are going to be 20 years from now. They have doubled over the past 4 or 5 years, I know for sure in Ohio, and I know in Florida, so let that rate continue and let this rate continue and let us keep borrowing money and have to pay interest on that. Let that continue.

So we are saying that a young baby that is born today has a tremendous tax burden on their head, from the national debt that they owe, their share, plus what they are going to owe for going to college; and if they go on to get a master's degree or advanced degree, it would be even more, and then the President's proposal to borrow $5 trillion more. What are we doing to the next generation? At the same time, we are not making the proper investments in health and education and the kinds of things that will eventually move the country forward.

Mr. Speaker, the Web site is www.house.gov/budget.democrats underscored, to get the deficit ticker to see what the real number is as this continues to move.

Mr. MEEK of Florida. Mr. Speaker, I think this is very, very important since we are talking about the future and we are talking about future generations, and we must talk about these numbers so future generations understand what their debt is.

For someone that is looking for additional help on Pell grants, that is not going to happen in any significant number. It is going to make a difference to your overall debt situation or credit situation. When you also look at the issue of Social Security from the beginning, remember, remember, $5 trillion to help save you money over the next 20 years. That is a lot of money, okay? It is going to stop us from doing the things we need to do in taking the debt down. It was the Democratic Congress here that made the hard decision to take down the debt and put us into surpluses as far as the eye could see, and then the Republican Congress took over and took us down into debt.

I think it is also important, and we always like to give the Members third-party validators, and I want you to write this Web site down: www.cbpp.org. That is the Center on Budget and Policy Priorities, the Center For Budget and Policy Priorities. There is a lot of good information on that Web site. It gives not only Members but the American people good information on what someone may earn and how much of a benefit cut they are going to receive; not a benefit increase, but a benefit cut. And in this whole debate, there is no, there is no discussion about an increase. There is no discussion about some of the positive things that can happen outside of saying, this will be good for the trust fund in the future.

□ 1915

I also want to say that, you know, that I have no real problem with what is going on in New York and the whole Wall Street experience. Okay? Do not think that I have a problem with it. But I do have a problem, which the only entity or institution, or even if Wall Street was a perfect person, to be the only group that would benefit from a privatization plan, some $940 billion guaranteed to Wall Street, not necessarily to the individuals that are enrolled in Social Security.

And I thought while the gentleman from Ohio (Mr. RYAN) was talking, as you know I have my papers, we get our briefings, and we call and we ask institutions that are studying this Social

Security privatization scheme to give us information as we work on ways to push this Congress towards a bipartisan approach to Social Security without private accounts. That is something that we are doing here as Democrats.

But I look, and I want to tell you, in your State there are a number of individuals, 315,000 survivor beneficiaries, 278,000 individuals that are receiving disability benefits. I think it is also important to understand, even in my State, in Florida, you have 450,679 that are receiving disability benefits and 408,543 that are receiving survivor benefits.

Even in the State of Pennsylvania just north of us, survivor benefits, these are individuals that their children are now beneficiaries from the work that their parents did. They didn't have anything to leave them, but they had Social Security to leave them, to help be there for them, because they wanted to be there for them financially, but that was a part of our deal with Americans that we will make sure that not only will they be taken care of, that we will have security for them, but for their children.

And in the State of Pennsylvania 353,000 survivor beneficiaries, and also you have 336,000 individuals that are on disability.

Mr. RYAN of Ohio. The same in Ohio. 315,000 folks that receive survivor benefits. 16 percent of people who receive a Social Security check in Ohio, 16 percent of them are survivor benefits. So this is a program that helps people who lose a parent at a very young age, they are under the age of 18 and they need a little assistance.

And that is what the gentleman from Alabama (Mr. DAVIS) talked about last week is a sense of community where we are going to have a system that protects and looks out for each other, gets each other's back. I think it is very important that we recognize that Social Security is really the best system, because it inherently embodies what is best about the country, and I think it is great.

I want to just raise a question here. We are kind of running out of time here. We only have a few more minutes left. We have a little bit of time.

Mr. MEEK of Florida. We have about 10 minutes.

Mr. RYAN of Ohio. But we have less than we had when we started, and we are closer to the end than we are to the beginning, so I am going to try to make a final point or two towards the end here.

The question really, and I want to ask the people at home, is this: What do you think, someone watching at home or if you are having a discussion with your friends over dinner, or your family over dinner tonight, what do you think the greatest crisis is in the United States of America?

What do you think this Chamber and our friends across the hall and the White House, what do you think we should be focusing on? Do you think that this problem that is 47 years away or 40 years away or 35 years away? We have all kinds of different numbers, we will give you the benefit, say 35 years away. Do you think that is the greatest problem facing the country, or do you think that the 40-some million Americans without health insurance, maybe that is the greatest crisis facing the country, or do you think the rising costs of health insurance, if you are a small business owner, or you are in a union and you are trying to negotiate a contract or you are trying to run a school system, and you are the superintendent or you are the teacher, maybe that is the greatest crisis facing the country.

How about, and I am sure in your district just like mine, Youngstown City Schools, Akron City Schools, Cleveland City Schools, 80, 85 percent of the kids qualify for free and reduced lunch. Maybe that is a more imminent crisis than a Social Security issue that is, you know, 40 years out.

And I just ask the American people to ask themselves, what do you think the great crisis is in the country today? The fact that the trade deficits, the debt, the annual deficits that we are running? To me, I share my opinion, those are the issues. That 85 percent of the kids in a school district in Ohio qualify for free and reduced lunch, that 50 or 60 or 70 percent of those kids live below the poverty line. That to me is a crisis.

How are we going to compete with the Chinese workers? How are we going to compete with the Indians if we are not able to educate our kids and our kids are living in poverty? To me that is the crisis. That people do not get the kind of health care that they deserve, that if you have a lot of money and you are able to get yourself into the Cleveland Clinic or some of the great hospitals around the country, you are going to be fine, but if not you are on your own.

Mr. MEEK of Florida. Mr. Speaker, I think it is important not only that the Members, but the American people understand, Mr. Speaker, that when it comes down to health care we are going to be okay. The reason why we are going to be okay is because we are Members of Congress.

Not because of our health plan, but because of our last name. And that is a crisis for real Americans, because my constituents they sit in the emergency room for hours. I walk into the emergency room, believe me, I can barely sit down before someone grabs my arm and says, Congressman, please let us check you out.

All right. When I need to get prescription drugs, I can get prescription drugs. When I want to get a doctor's appointment, I can get a doctor's appointment. I do not have to wait 6 months to see an ophthalmologist or on optometrist, whoever it may be, to see them.

I think what the gentleman from Ohio (Mr. RYAN) said in the last 5 or 6 minutes meant so much in this entire hour of really talking about the issues, where the rubber meets the road. And the reality of this argument is that originally the administration was saying that it is a crisis. They kind of have backed off of that now, because the American people said you want to know what a crisis is? The crisis is that my son is sick and I cannot afford to take him, I am taking care of him through the drug store. I am buying off the shelf, which I think is a greater problem. I hope it is a cold. That is a crisis.

A crisis is not saying, hey, listen you know something, I got to move this private account thing while we are in power so we can help make our buddies even more buddies to us. Because that is what I think the underlying issue here is. And so I just want to step in there, because you made an excellent point.

Mr. RYAN of Ohio. I just think that is it. Thanks for reiterating it. It is just what is the crisis? What do you at home want us to deal with, because we work for you. What do you want us to deal with here? And we are trying to bring up issues like China and how we are going to deal with that tremendous threat, and the administration brushes it off.

You know, we want to deal with health care and the amount of poverty, not necessarily for compassionate reasons, although some may feel that way. But because we need everyone playing. We are going on the field now with only half a team, and that is getting very dangerous.

So as we wrap it up, I want to share again, send us an e-mail, 30somethingdems @mail.house.gov. Do I have time to read?

Mr. MEEK of Florida. Go ahead and read the e-mail you have.

Mr. RYAN of Ohio. I want to read the e-mail.

Mr. MEEK of Florida. Give the e-mail address.

Mr. RYAN of Ohio. I just gave it. 30somethingdemocrats@mail.house.gov. Send us an e-mail. I want to read one, we only have time to read one here, from Mark Sanchez from Las Cruces, New Mexico. We are making it out West, somewhat of a political junkie, 25 year old active duty service member stationed out there.

And last week he saw us talking about Social Security, very hot topic. He considers himself very informed, and it bothers him to a great degree that those in my age group do not care about what the President and Congress are doing.

I personally feel that the President's plan for Social Security is not one with the people in mind, but rather one with his friends on Wall Street in mind. I may be young, but I am not blind to record deficits that are causing this country to go deeper and deeper into debt.

I believe the President's plan is wrong for America. I believe this is an

issue that can be addressed and thought over as time goes on while more important matters that are hurting this country are addressed. He said very similar things to what we were saying, issues such as health care, immigration and energy are problems that face Americans now, not 30 years down the road.

I am happy to see that you are willing to stand up for the people rather than special interest groups that have too much control in Congress these days. Please keep up your hard work because it is needed.

People like you keep his personal hopes alive for one day standing on the floor of the House of Representatives and debating issues and problems that face our country. So we have an aspiring Member of Congress here, Mark Sanchez. So thank you, Mark, for sending that in.

Again, 30somethingdems @mail.house.gov. You also go to the site I gave you earlier to check out the deficit clock too.

Mr. MEEK of Florida. I want to thank the gentleman from Ohio. And to our e-mailer, we just want to say that all Democrats throughout this Congress will be calling into radio stations, be it country, rap, rock and roll, what have you, during drive time in the morning to talk about the importance of Social Security and young people.

Mr. Speaker, it is always an honor to come to the floor and we thank not only the gentlewoman from California (Ms. PELOSI), the Democratic leader, but the gentleman from Maryland (Mr. HOYER) the Democratic whip, for allowing us to have this hour week after week. This is a strong part of our democracy, and we really appreciate representing the 30-somethings and above and under, that age, to give them a voice here on the floor.

OVERVIEW OF THE WAR ON ILLEGAL NARCOTICS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SOUDER. Mr. Speaker, tonight I am going to give an overview of the war on illegal narcotics in the United States.

I chair the Subcommittee on Criminal Justice Drug Policy and Human Services in the Government Reform Committee, which when the Republicans took over Congress in 1994, was reorganized by then Chairman Bill Zeliff followed by the gentleman from Illinois (Chairman HASTERT) followed by the gentleman from Florida (Chairman MICA), and now myself, to be a committee where we could do an overview of all of the different parts of the war on illegal drugs.

The challenge we have in narcotics is that this battle goes across many different agencies, and so it gets divided up somewhere in the neighborhood of 23 to 25 subcommittees in the House, a similar amount in the Senate, and nobody had been looking at it comprehensively.

So it wound up over in this committee. The authorizing of the Office of National Drug Control Policy, commonly known as the Drug Czar's office, is not only overseen now by this subcommittee, but actually is now authorized as primary authorizer in this subcommittee as well, which has led to the national ad campaign being added to that, the Community Antidrug Coalition, the High Intensity Drug Trafficking Areas, and increasingly some of the other bills are being assigned to this committee because we can look at it holistically, and then it also gets sometimes joint referrals to other committees as we are working through similarly on the homeland security bill, as people have been watching through this.

There is a couple of different points that I am going to cover tonight. One is kind of basically how we approach illegal drugs and how we are tackling this as a Congress, as a Presidency, and how this has evolved.

Secondly, looking at some of the successes, then focusing some on the major challenges we have ranging from the meth challenge to the border challenge, which has been getting a lot of news, to Afghanistan, to the abuse of legal drugs like steroids. We have been having hearings in our full committee in Government Reform.

Then some specific comments in detail on the President's which we have many concerns about, particularly his effort to, in effect, change many of the effective local programs, and nationalize them in Washington, and potentially gut the drug war of the United States.

And I am hoping Members of Congress and their staffs are watching tonight, because this is a direct-on challenge that could, in fact, undermine everything we have been doing.

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It needs a resounding defeat in this appropriations process so we do not have to fight this every year. A decisive win this year and a turning around and saying we are not abandoning State and local law enforcement and nationalizing everything in Washington is extremely critical in our drug war.

Let me first start out with kind of a philosophy because often when we come to the floor of Congress, you hear bits and pieces about what we are doing in the drug war, but you do not see a holistic picture with this.

So if you look at this as a start, the first role is not to have people use illegal narcotics. So we will start with safe and drug-free schools, trying to get to our schoolkids. We have community anti-drug coalitions to pull together communities in the United States to do these efforts.

We have the national ad campaign, that you see the ads focused on marijuana; and then in conjunction with the direct national ad campaign, the in-kind contributions that work through a multiplicity of organizations, but particularly the Drug-Free America coalition that has used the best advertising agencies in the United States to develop ads, which those of us who all too well remember, this is your brain, this is your brain on drugs, looking at the fried egg.

But the Partnership for a Drug-Free America has come up with many different creative ads that supplement the national ad campaign. It is a massive effort to try to battle everything from the jokes on the Tonight Show about our use of marijuana, to movies, to MTV, to all that type of stuff to make sure that we have a consistent national message out there.

Then we have drug testing, because one of the best ways to do prevention is to drug test people. I have a company in my district that they were told they had a problem. They drug tested their company and find out a third of the people were high on the spot of cocaine, meth, and this high-grade marijuana. Now, they immediately fired them, that they were in clear violation of a company policy, but one-third of their employees. Another similar thing in another county they did, and I think it was closer to 25 percent, but it is extraordinary.

Remember, these are not hair follicle tests. These are urine tests, which means it has to be fairly recent. A hair follicle test, you may be able to find drug use 30 days previous. Urine test means you are basically high on the job, running this equipment and doing this kind of stuff. So drug testing, if you know you are going to lose your job if you are drug tested, that is one of the best prevention programs; but those are some of the highlights of the prevention strategy, the national ad campaign, Partnership for a Drug-Free America, the community coalition, drug-free schools and drug testing.

Then you go, okay, if this stuff's too cheap or too pure, basically it overwhelms the prevention policy. So what do we do? First, we try to get this stuff, get the illegal narcotics at its source.

So let us take cocaine and heroin in Colombia. First, you try to eradicate it. You go there, spray the stuff, hit it multiple times a year. If you fail and some gets out, which it always does, then you try to interdict it in the source country and get it before it hits the shores of the Caribbean or the eastern Pacific. Once it gets in the water, now we are dealing rather than in an area maybe the size of Texas, we are dealing in an area that is huge, the Caribbean Sea and the eastern Pacific. So it is much harder to get it.

If it gets to our border, in our land border, in Mexico, the Gulf of Mexico, Florida, comes up farther into California or up into New York City or

comes down through Canada, then we now have a border control effort; but as I will point out later, and as most people are aware, our border is not exactly sealed.

Then if it gets through our border, then we move to the law enforcement question. I am from Fort Wayne, Indiana. Now it is starting to get closer to home. We failed to get it eradicated. We failed to interdict it in Colombia. We failed to get it as it moved into the transit zone. We failed to get it at the border. Now it is coming at our hometown.

Now we will have drug task forces. We will have high-intensity drug trafficking areas. We will have Burn grant money going to set up drug task forces. We will have our local police forces. We will have our county and district-wide, in some cases, drug task forces trying to do the law enforcement side.

Then people go to prison, and so we have prison re-entry programs trying to say, okay, we have locked these people up for drug crimes, how do we treat them in prison, how do we work with them as they are coming out of prison. We have drug court programs. That is kind of the law enforcement side.

Then we have the drug treatment. When all else fails, we do drug treatment. Quite frankly, as Nancy Reagan, you can never win a war just treating the wounded. That is in effect saying everything else has failed. Drug treatment is really hard. I and others have very seldom ever met a drug addict who has not been through seven treatment programs. The programs themselves are expensive. They are hard to maintain. Just think of the things you struggle with in life, and classic is everybody tries to do a diet starting on New Year's Day, and by the third or fourth day, they have already failed some.

If somebody has a real addiction problem, without a huge head change, it is a constant battle and they fall back and they fall back. Treatment cannot win the war on drugs, but treatment is a part of the effort to try to rehab those people who get mired in it, and we as a society need to help them.

So if you look at that, we are trying to prevent; then we try to eradicate and interdict; then we try to enforce the law; then we try a drug treatment when all else fails and try to help the poor souls who got addicted.

What are our success stories? The fact is this President made a goal to the Office of National Drug Control Policy that said we want a 5 percent reduction in drug use in the United States every year. There is only way to achieve it: it is marijuana.

Marijuana is the gateway to all other drug use. Yes, alcohol and tobacco for young people because it is also illegal. It is often the gateway to marijuana, but basically if you want to tackle the meth problem in the United States, you tackle the marijuana problem. If you want to tackle the cocaine problem in the United States, you tackle the marijuana problem. If you want to tackle the heroin problem in the United States, you tackle the marijuana problem. If you want to tackle Oxycontin abuse, you tackle the marijuana problem.

When you tackle the marijuana problem and move that number, you move all the others. Maybe only one in 10, one in six, I do not know the precise number, it varies year to year or two and by age category, will ever move to another drug, but the fact is if you lower the number of people using marijuana, you lower the number of people using everything else more effectively than tackling those drugs in many cases. Marijuana is the gateway drug.

The marijuana we are talking about in the United States is not what used to be called in Indiana ''ditch weed.'' It is not the Cheech and Chong stuff. It is not 4 to 6 percent THC content, which is bad enough; it is problematic. If you do not really want somebody coming down at you drunk, well you definitely do not want them coming at you on the highway high, but that is high. It is like being drunk.

But when you get this marijuana that is coming in from Canada, that increasingly is being sold on the Internet so people can do hydroponic marijuana, you are talking 12, 20 percent, some cases even 30 percent, selling as high as cocaine and heroin. Why? Because it wipes you out like meth.

This so-called medicinal marijuana has unfortunately been implying that marijuana's medicinal rather than that there are components in marijuana that we isolate like marinol that we should try to put in pill form and help people who cannot do other things, but marijuana is not medicinal. Marijuana is terribly addictive. It is the number one reason people are in drug treatment. It is the number one law enforcement problem in narcotics and is number one gateway. So you have got to tackle marijuana.

We have made progress. The reason we have had 5 percent reductions steadily for 3 years now is because we have tackled marijuana.

Let me put this in perspective, and this a frightening statistic because some people tell me, oh, you know, why can you not just win the war on drugs; how come we have to spend more money every year? Why does this not go away? Politicians love to say, okay, I voted for this appropriations bill, I passed this appropriations bill, it got implemented, now the problem is fixed, now let us focus on something else.

I, as a Christian, believe the source problem is sin. You do not get rid of sin. There is nothing in the Bible that suggests sin is going to disappear. If you want to call it something else that is a struggle when you start to get addicted to an illegal substance, fine, call it that; but it is basically do not ask me why we cannot get rid of drug use in the United States and not ask the same question about rape, spouse abuse and child abuse and other things we struggle with. We never get rid of them.

What we do is we try to control them the best we can, to contain it the best we can, to reduce the number of people who do it, but every day somebody wakes up in the morning and all of the sudden hits their kid or rapes somebody or in a crime of passion kills somebody. It does not go away. That is why we have police forces. That is why we can never back off of the narcotics thing.

But when we back off, this is what we know: in 1993 and 1994, we had a disastrous policy under a previous President who now realizes, and at the end of his term changed around totally, but at the beginning of his term, it was a disaster. They cut the drug czar's office from 123 people down to about 23. They cut the interdiction budget. They closed down a lot of the radar systems in the transit zone; and what happened in that period and then on top of that laughed about, I did not inhale, and did not have these aggressive anti-drug drug testing programs and things on the national media.

What happened from 1992 to 1994, drug use in the United States went up so much that we have to have a 50 percent reduction from 1995 to get back to 1995. So the fact that we are getting 5 percent a year is not enough. It means we are 15 percent back to where we were at in 1995, but we have a long way to go to even get back to 1995.

I have got to say this: people laugh at ''just say no'' under Nancy Reagan. It worked and it worked because it was not ''just say no.'' ''The just say no'' was the symbol, just say no. They started the national ads, the Partnership for a Drug-Free America. They started the safe and drug-free schools program. We created and got more aggressive in DEA. ''Just say no'' was the signature. But when we went at it, we had drops from 1981 to 1988. From 1988 to 1992, we had a little up and down, and then the collapse; and we are trying to get back to where we were.

This administration, however, deserves credit. For every single year we have had a reduction, and someday maybe we will get back to where the previous President was; and quite frankly, in the last 2 years of the previous Presidency, former President Clinton did a great job of focusing with drug czar Barry McCaffrey. We made progress in those last 2 years. It was turned around, and they realized their mistake; and they changed it around.

Then, quite frankly, George Bush, our current President, got off to a difficult start because he wanted to take the drug czar office down from a Cabinet-level position. We battled that, but we have made progress for the last 3 years.

After 9/11, we saw some changes in how the drug budget was allocated, but because we were screening more things and so on, we have been getting more narcotics. Because of better intelligence, however, we are seeing more of

what we are missing; but in fact, we are seizing more narcotics.

We have made steady progress in Colombia. Just a few years ago, only about a third of the cities in Colombia had anybody who wanted to be a mayor. It is not how we have primaries in the United States and we have lots of people running for office in the United States. I have run now six times. I have had five primaries and six general elections with plenty of people wanting to run again the next time. It does not matter that I have big margins. They all want to run for Congress.

They do not have that problem in Colombia because in the United States you do not get shot. Your odds are maybe once every 50 years a President gets shot at. We do not have too many candidates for Congress getting shot and murdered and assassinated. We do not have too many mayors, but in Colombia it was like a death warrant to run for office. So hardly anybody was doing it because we could not control the ground. Because of the Andean Initiative and the Colombia Initiative, in particular inside that, we now have in basically every significant town in Colombia, 100 percent now, a mayor. That might seem like small progress, but it is pretty big progress.

We still have huge problems in Colombia. They have gone farther out into the national parks. They have gone into the Amazon basin, away from where it is easier to see them. It is farther for us to get the spray equipment there and the Blackhawk helicopters there. The FARC and the terrorist groups are able to run and pick their targets where, as we are trying to cover in effect and defend a bigger portion of the nation in Colombia. The fact is that it is progressing.

Secondarily, one of the fundamental questions is that it used to be about a third was in Colombia, a little more than that was in Bolivia, and another chunk of it was in Peru. The question is, was this going back to Bolivia and Peru if we made progress in Colombia, something we have to watch. But right now it does not appear to be going back. Plus, it was the growth of coca and poppy that was occurring in Bolivia and Peru, whereas in Colombia they have always been the processing dealer network.

It is close to the United States. As many people may remember, Panama used to be part of Colombia. Much of that then hops right up to Mexico and comes across the land border. Whereas if you push it farther south, and we do see problems in Paraguay and Brazil and northeast coast of South America, but the bottom line is, if we can get control of Colombia and in a sense make it a more peaceable nation, a nation that has thousands of police officers dying because of America's and Western European's addiction to cocaine and heroin, their supposed revolution is basically a narco-terrorist war funded by United States drug addicts and drug use.

So we have made some progress in Colombia, and that is good news.

We have made incremental progress in other areas, but now let me cover a couple of the challenges.

One is methamphetamines, and meth is a huge issue for us to deal with. I want to put a couple of national perspective things here because probably about from people who are watching tonight, Members and staff are watching tonight, about 35 States do not really have a meth problem. Some of those 35 actually have a little bit, but it is hardly on the radar screen.

Fifteen States, there is no other drug problem on the evening news except for meth. In my home State, if you watch the news, you would think that meth is 90 percent of the drug use, and it is not; but there are some reasons why meth is such a tough issue in the 15 or so States where it is there.

Hawaii was the first State to really have a huge meth problem. Then we saw the superlabs in California, and former Congressman Doug Ose had then-chairman, the gentleman from Florida (Mr. MICA), and I go out; and we did hearings on some of the early superlabs in California where they were producing methamphetamines.

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These crazy people, when they get addicted to meth, they go crazy. It is much different. It is a little like crack, but it grabs ahold of your brain and you go crazy. These people would blow these things up in their houses because they would get so addicted they would not know what they were doing, and their house would blow up and kids were dying in California.

We had an unbelievable case that led to a law in California. I mean I do not know how else to say it, but some of these were idiots; their kid was cold, and to warm them up they put them in their stove and burned their kid to death because they were so disoriented. They do not have any clue what they are doing. This drug takes you over.

There was an article in People Magazine in the district of the gentleman from Arkansas (Mr. BOOZMAN) about a majority of the town that got addicted to meth. As this happens, one of the problems with meth is we do not have a lot of treatment programs that work with a meth addict. It is a huge challenge. Furthermore, if they are cooking at home, and by cooking at home, making meth at their home, the environmental damage and environmental cleanup is incredible. It is often not even safe for the police to go in.

Take Warsaw, Indiana, with Sheriff Rovenstine, who has a drug task force group, and they hear of a meth lab out in Kosciusko County, he has to send his group of four guys out there. They will often have to wait 4 to 6 hours until the Indiana State police can get there with a cleanup lab. They cannot really go into the house because they do not know how dangerous it is environmentally for them. They do not have all the equipment to do so.

So you have tied up your entire drug task force in a county of 80,000 people because of one meth lab, and he may only be cooking for himself, someone in his family, and maybe one other person. It is not like a big drug operation, but it ties up your police force. It is a tremendous cleanup problem.

Now, in Hawaii, they have had actually one or two apartment complexes where these people are starting to cook in some of the urban areas. We have not seen too much of that in the United States, maybe a little in Detroit, a little in New Orleans and starting to come in at the edges of some cities, but mostly this is a rural-small town problem so far in the United States. But they have had in some of the apartments where you have to pay from $300 to $600 before you rent the apartment to make sure it is cleaned. Because if somebody has cooked meth in there and now you bring children in, you can endanger your children's health because someone was cooking meth in the apartment you have now moved into. Do we really want to get in this situation around the United States?

So we are having some difficulties in how to address this, because here is the fundamental problem with meth. Meth is only 8 percent of the drug use in the United States, and it is not moving much. As it moves east and marches across the United States, the reaction in the communities is so aggressive that you start to get control and a flattening out in the State where it was, and then it moves into the next State. So as we watch it move from Kansas to Arkansas and into Missouri, into southwest Indiana, Kentucky, Tennessee, and watch it head into North Carolina right now, it starts to stabilize on the western side but expands on the eastern side. It does not mean it is solved on the western side.

And often the media coverage is delayed. So the media coverage may be highest now in some of those States when in fact their biggest problem was 2 years ago, because the community is so outraged they are starting to deal with it. Nevertheless, it does seem to be expanding nationally.

The insidious thing about this is that of this 8 percent meth, only about a third of this meth is actually from the home cookers. The biggest percentage, even in the State of Indiana, which is about sixth in the number of meth labs, and my district is second next to the district of my colleague, the gentleman from Indiana (Mr. HOSTETTLER), which is the southwestern part, even in our districts 67 percent of the meth is coming in from super labs, formerly from California but mostly from Mexico across the border.

So what happens is that meth is somewhat a little more urban and it comes in and is cheaper and more potent than the home-cooked meth. So we have a double problem here that Members of Congress are wrestling

with. One is what we are hearing from home are the meth labs, because we see the dangers of blowing up and burning houses down. They blow up their van if they get in a car accident because they are carrying anhydrous ammonia in it.

One person in one small town in my district was one and a half turns from having a huge regional anhydrous ammonia tank explode that would have obliterated everyone in that town of 700 within minutes. There would have been no ability to run, and they would have been deader than we would have been in this Capitol building if that plane had had C4 in it and hit the Capitol building last week. They would have been all obliterated just like that.

So as we try to tackle the meth problem, however, the fact is that while they put the pressure on the police forces, while they put the pressure on the cleanup, while they are endangering their children, they are not even the majority of the meth problem. So we have to try to figure out how to take down these larger organizations. The DEA, in a great case with the Department of Homeland Security, interdicted what looked like at that point as much as 40 to 50 percent, maybe even as high as 60 percent, of the meth precursors that were coming across the Mexican border, pseudoephedrine.

Now, I am not going to really get into debating bills right now on how to address the pseudoephedrine question, but I have some concerns about the State laws that are passing, and I think at the Federal level we need to get at it at the wholesale level rather than shut down every little small rural town that has a grocery store or every small town that has a pharmacy because they have to put this behind the counter. That is too hard. We need to address it at the wholesale level and the production level in China, in India, in the Netherlands, in Belgium, and we need to set up meth watch programs. If we have to, we will just ban pseudoephedrine in the United States, as now something like eight States have, and it is increasing every day.

The fact is, as we heard with the Oklahoma law, by banning pseudoephedrine and taking 100 cold medicines, basically, and reducing that number and putting it behind the counter, what happens is they merely go to States where you do not have that. Since 35 States do not have a meth problem, they will not be too anxious to get rid of their cold medications and put them behind a counter if they do not have a meth problem in their State. Not to mention there has been a little discussion here and there on the floor about what to do about Canadian pharmaceuticals.

Obviously, you can get pseudoephedrine the same way you can get anything else from Canada and Mexico, on line. And it is a little naive to think we are going to be able to control pseudoephedrine by closing all these grocery stores down that do not have pharmacies and making the pharmacists put it behind the counter and reduce the amount of cold medicine. It is not going to work and, quite frankly, Oklahoma is gradually learning that. But it does not mean their heart is not in the right place and we do not have to figure out a way to address it, because meth is an incredible problem. But we will need some national solutions, and the bigger wholesale systems can do this better than a little country grocery store.

I want to move off the meth to the border, another subject that has been in the news a lot lately. I said earlier that most people are increasingly understanding that the border is not quite sealed. That is an understatement. Basically, 900,000 to a million people are crossing the border a year. Our subcommittee over the last few years has held hearings at San Ysidro, which is the San Diego corridor. We have held hearings in cells on the Tohono O'odham reservation to the west of Nogales. We have held hearings at Nogales. We had a hearing over in the Sierra Vista area and on over to the Douglas area at the Arizona border, as well as in Phoenix. We have held a hearing in Las Cruces in the New Mexico sector. We have held multiple hearings in El Paso. We have been down to McAllen and Laredo on the Texas border, as well as hearings on the north border.

I have spent a lot of time on the border. Earlier this year, not that many weeks ago, myself and Nick Coleman and David Thomasson and Mark Wiede and Tracy Jackson from my staff spent 4 days on the southwest border working on a number of these issues.

It is easy to confuse immigration questions and terrorist questions and narcotics questions when you get to the border because they are the same people. If you cannot stop an illegal immigrant, you cannot stop a drug dealer. And if you cannot stop a drug dealer, you sure cannot stop a terrorist. We have all three elements moving through. Now, they are not all the same people. I would argue that out of the million people coming in, somewhere around 900,000 are coming to a job. And we have to figure out how to get them separated.

Now, I have heard people say, and I support, getting 2,000 Border Patrol, and the administration is only talking 400 or something like that. But we could not stop it if there were 20,000 Border Patrol. And if we have got them all on the land border, they are going to move, because we cannot even see right now planes coming in and boats coming in the whole Caribbean Basin because we do not have any aerostats up and we are blind. They can get across multiple ways. They can come around Canada. We cannot put a person from the Border Patrol or the military, the Guard, every few feet. So we have to figure out a realistic way to separate those who have a job who are coming into the United States from those that are illegal.

Furthermore, let me give some astounding statistics, and I am not going to be too particular here, because I do not want to encourage people. But let us just say, hypothetically, there are some border crossings right now where if you come across into the United States, because we have heard a lot the last couple of weeks about the Arizona border and how people are moving across the Arizona border and we do not have a fence there and that is the big transit point. First off, let me say, clearly, for the record, I do not believe most people are coming through in between the border crossings. I believe most people are coming through the border crossings.

Secondly, I am not absolutely convinced that they are mostly coming through Arizona. I think Texas has a bigger border, and probably more are coming through Texas than Arizona. But Arizona has a problem that has been growing exponentially. That, nobody disagrees with. And to some degree between the border ports of entry California is more controlled because of the fence. So Arizona has the newest part of the problem and the most dramatic part of the problem right now.

But let us talk about what is happening at this border. If somebody comes across the border and we decide we are going to put them in jail, hypothetically, the question is where would you put them? We do not have jails for a million people. The net result of this is that the Federal Government in some places does not even take a case unless, and this is on the record, I am not disclosing this, they do not even take a case unless it is 700 pounds of marijuana. Now, think about the bust in your district. You are talking one pound, ounces. We have people in jail long term over ounces, and they will not take a case over 700 pounds. Sometimes, at the local level, they do not take 200 pounds.

Let me put this in colloquial expression, as I said: You do not arrest somebody if they are carrying 150 pounds across the border? They said, Mr. SOUDER, our jails are full. We cannot even put local criminals in prison because we have so many people running drugs to Indiana, running drugs to Illinois, running drugs to Ohio, running drugs to Michigan, running drugs to New York through our town. We cannot even control the law enforcement problems in our town because of your addictions in the Midwest and the East and across the South because they are running through our area. Unless you are going to build our prisons, we do not have anyplace to put them.

So now we are not just talking about a guy who is walking up to a job in an RV plant in Indiana, we are talking about we are not even locking up drug dealers because we do not have anywhere to put them. So now let us get back to this person, like this one person who was picketed up in Arizona. They stopped him and said, you are coming in illegally. He said why did

you stop me? I have been doing this twice a year for 8 years.

Not only do we not have control of the border, we do not have hardly any control over the border. At one crossing we were told during a committee hearing that as long as you do not have another crime, other than entering the United States illegally, that you could cross 17 times before they detained you overnight. Now, 17 times before they detain you overnight.

Now, the latest is at that border crossing and the other major border crossings the number of times you can cross before they detain you overnight is forever. We do not have anyplace to put people. There is no current principle that says you will ever detain. In fact, when we were at San Ysidro, a van had a couple of large individuals concealed on the top. They were from Brazil. Basically, they had not committed other crimes so their penalty was we paid their way back to Brazil. The taxpayers got the penalty, not the individuals.

Now, back in Brazil they may have purchased a package, which is also public record, I am not disclosing anything tonight, the packages are for sale in Mexico from $8,000 to $12,000 for Central America, from $12,000 to $16,000 or $12,000 to $18,000 for Middle Easterners, 30,000, basically, that in 7 days you will get into the United States or you will get your money back.

So if these people from Brazil bought a travel package for the United States, they get their overnight, they get their food, and they are guaranteed they will get in. So if we fly them back to Brazil, they will be on a plane back, as part of their money-back guarantee, and they will be back in the United States. Of course, if they get caught again, the penalty again will be to send them back to Brazil and it will take a couple more days for them to get back.

Another individual we saw there at the border had a fake ID. They said, look, her face does not match up. And she was really nonplussed because she knew what her penalty was going to be. After we got done examining her stuff, after we spent hundreds of thousands of dollars checking her out, she knew she was going to go back across and a little later that night or some time later she would come back across again.

Now, the fundamental question is: If most people who are illegal are coming across the legal border crossings, then why are they running through the desert? I have been asking that question, too: Why are they running through the desert? Do they not know there is no penalty for crossing at our major crossings, other than having been inconvenienced? It can be a problem theoretically, if we ever change our laws, because they will be in our system 17 times, but right now there is no real penalty.

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Some of it is an inconvenience to the coyotes. The coyotes are the people who are like a travel agent. They do the bookings. They give a guarantee. Obviously, if they can get you through the first or second time into the United States, it is cheaper for them. They do not have to pay extra meals or overnight. They want to keep you together and get you through the first time. That apparently has become a problem going through the main border crossings because if you bring across a group of 20 people and two of them get caught, it is inconvenient. You are bringing 20, and there are only 18 that get through. Plus, you gave a money-back guarantee. So they like to move through the desert areas and the areas between the border crossings for their convenience because occasionally our disruption is an inconvenience. It is not like they are going to go to jail. It is just an inconvenience.

The other thing is we are systematically, and some of the things this Congress needs to look at, the penalty for being a coyote is 2 years. Prosecutors are overwhelmed. They cannot take people with 700 pounds of marijuana, how can they take a coyote, and for a 2-year penalty, probably getting suspended after 6 months, what is the point.

We ought to have tougher penalties not on the immigrants who are crossing, but for the people who are organizing these huge systems, and that penalty ought to be more than 2 years. I am not going to talk much about the people on the border who are patriots and the Minutemen. They are frustrated, people running through the ranches. You are a rancher and you see a couple of people coming across. You want them gathered. To come and get them means we may be leaving 100 people in another location. But it is your ranch, and you are upset. I understand that. We need to get better control. But as a practical matter, you may be stopping and it very well may be that the Minutemen did more to bring drugs into the United States and more of these operations in because they diverted our resources over to picking off here and there, and may have, this is a classic of are we running a picket fence on the border or a backstop way to see how the networks are going. It is not dissimilar to other major drug issues.

Are we taking down an individual user on the street, or are we trying to turn him into who is selling him, and who is selling him, and who is selling him. And by the way, how did it get across the border? Who did you corrupt? What border guards did you buy? They are corrupting people in our own embassies and military. Who are you buying?

If we figure out those things, we do not have to bust the little people who usually wind up bearing the brunt of this. We have to get to the systems. If you take down the people at the border, we cannot figure out, because Customs historically and the border patrol used to bang at this before they were both at DHS. Now they bang internally, because the picket fence wants to stop everybody.

Customs want to let some through so we can see where is the van behind them; where are they working; who is paying their way and getting them to the border. Furthermore, there is probably a good chance they are financing this with narcotics. How do we stop the deaths in the United States from narcotics use if we are stopping them at the border and we cannot figure out the patterns?

Let me tell you about another pattern. We hear a lot about identity theft in the United States. A friend tried to get a credit card and found out four other people had her Social Security number. The good news is she had four times as much money in her Social Security account. They did not steal her Social Security number because they wanted to use her credit cards. But she had to go through all kinds of things with her birth certificate and everything else to prove that was actually her Social Security number.

Much of the identity theft in the United States is because employers, and there has been a lot of discussion on this, employers cannot discriminate. If you show them a Social Security number and a card with your picture on it, they cannot question a Hispanic or anybody else of any other background about how they got it unless there is reasonable suspicion that it was doctored. That is because otherwise this can become very quickly a very racially biased harassment thing by employers against minorities. I understand that.

So employers' hands are tied. If somebody gives them a document that looks legal, they cannot pursue it; and we are unlikely to change that law because I believe there would be racial discrimination expanded if we changed that.

So we have to get to the altered documents. In my district, two green card manufacturers' places have been taken down. In another county, a third green card manufacturing place was taken down. If we have 900,000 illegals in the United States in the workplace, that means that the bulk of those have illegal cards with somebody's Social Security number on them.

Unless we get an immigration strategy that works here, we have the motive, whether it is deliberate to steal your credit card and get your Social Security number or whether it is just random that they hit your Social Security number, we are having identities stolen because we are not dealing with the legal immigration questions and the border questions.

At the border as we move through, for example, one of the side things that is happening here is it is even hitting our national parks because, much like I said in Colombia, if you start to seal off some portions and build fences, they are going to go through places where you do not have fences. So at Organ Pipe National Monument they

shot a ranger going through. There are very few trails that are safe to hike in Organ Pipe anymore. One of the best hiking trails in the United States is closed because it is not safe. You do not know who is packing guns or selling dope. You go through the washes, and we have hidden and disguised in sagebrush strips because they have started taking their SUVs through the washes and the stream beds. We talk about trying to preserve nature, they are tearing up the parks with this stuff. We pop the tires, and then they abandon the vehicles.

When I was walking the border with the superintendent with people from the Federal Government, people were crouched waiting to come across. The strangest case in Organ Pipe, we had a barb wire fence at the border crossing, and you can see they just cut the fence. Every time we fix the fence, they cut the fence. There is no effective control, especially if they just come back the next day.

But in one section, there is no fence and it is over in land in Mexico, and it is intact. I said, What is the deal with that? They said, Well, the Mexican farmer there stole the fence and moved it over to his property, but we did not move it back because that farmer is really protective of his fence, and they all have to go around.

Mr. Speaker, think about this a second. A Mexican farmer stole the American fence and put it around his farm, and he is more protective of the fence at his farm than we are of the border. Interesting in a strange way. But at least in that area we are controlled, in a bizarre way.

You also can see all sorts of empty milk cartons. If it is white, that means it was water. If it is black, that means it was drugs. You see drug scatter all over. In some cases it is pocket change. Other cases it will come over on old-fashioned mule trains.

We held a hearing in the Tohono O'odham Reservation. They have been screaming that they have been abandoned there. This was several years ago, maybe a year and a half. We were there. The previous year, 1,500 pounds of marijuana went through. In the previous 2 months, 1,500 pounds went through. The day we had the hearing with all of the Border Patrol cars, all of the Department of Homeland Security personnel, more Federal officials than they had seen in Tohono O'odham Reservation probably for a year and a half, at one place, they just decided they were going to start taking down some cases.

Guys coming out of the hearing would stop people. They picked up 300 pounds in one, 500 in another, 400 in another. Basically, by the time I got done with the hearing, they had picked up 1,700 pounds of marijuana running through the town of Sells. And later that afternoon, they sicked some Blackhawks on a group of seven SUVs. Basically, the front vehicle shot their way through even with all of the Customs and Border Patrol people chasing them. But they did get six of them and had another huge bust that evening.

The point being, it is so massive we do not even know how to deal with it. Until we work out a strategy to figure out how to get the legal people through, there is no way, whether that is work permit with citizenship, long term if they learn to speak English, renounce dual citizenship, multiple ways. Somehow we have to do this because we cannot do it. We are trying desperately to manage this. People can yell at the Customs and Border Patrol, and I believe they need to get rid of the division between the Border and Customs Patrol and ICE because it does not work. You cannot do the investigations. They have to be able to move back from the border and figure out how that network of people bring people in then go to the city. If we can find that out, we can find out who is providing people with green cards when they get into the van and who is making those green cards, who is stealing our Social Security numbers.

If we just look at here are the people standing on the border behind the big white fence, and here are the people investigating over here, and they are not interconnected, this is silly. We need to tackle this in the Department of Homeland Security and in the reorganization. Some people are concerned about having the deportation changed. Other people do not want deportation there. This is a silly division. It is not working, and we have to get this addressed.

As we tackle this and as we move forward and get Department of Homeland Security more organized and work with an immigration strategy, then we can start to get control of the narcotics strategy. Remember this, 24,000 people a year, that is the last figure we have from 2003, die of illegal narcotics. Slightly over 3,000 died at the World Trade Center. So since 9/11, we have had 24,000 a year die of narcotics. If we divert funds from Border Patrol Agents looking for the potential terrorists all of the time and forget that thousands, more than 20,000 people, are dying of narcotics, we have focused wrong. We have to watch the terrorists.

Plus, as we have talked and I have met in Europe and in the United States with the Swiss bankers, as we have talked with other countries where they historically have been able to hide money, as we shut down certain foundations where they have been laundering money, where are they going to go? To narcotics, to human trafficking, and to some degree to diamonds and other sorts of commodities that they can do illegally. But the number one places are narcotics and human trafficking.

We are seeing these different terrorist groups around the world interconnect. As we drive them underground, and as we clean up legitimate banks, as we clean up legitimate places, they go to the harder-to-find places. And the same people, to take Afghanistan, for example, what do you think is paying for the weapons that killed our soldiers the other week? Do Members think it was, say, minicomputers? Was it Afghanistan, the great producer of SUVs? Was it the bread basket of Afghanistan producing soybeans? No. They used to produce food stuff for the entire world. Now Afghanistan produces heroin for the entire world.

As the exiled King told us twice before he went back, and once over there, we were the bread basket of Europe. But we have been told that we do not want to eradicate their livelihood because we need to find alternative development.

The question is do we go to the city of Fort Wayne and tell these kids on the street corner, you are making $600 as a lookout, and we are not going to tell you we are going to throw you in jail until we find you a job that pays you $600 an hour? That is ridiculous.

We say we are going to lock you up and you should get a legitimate job that pays minimum wage, and you learn skills and move up. It is the same thing we faced in Colombia. There is no amount of palm heart in Colombia that is going to make as much as growing cocaine. So unless you think your cocaine crop is going to get eradicated, unless you think your heroin crop is going to get eradicated, and we do that multiple times a year and we are persistent, then you say, hey, what about the palm heart and what about the soybeans because I can feed my family and live on this, but I cannot make it if it is heroin. I cannot make it if I do not grow something; and if you are going to eradicate the heroin, I have to grow something legitimate.

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In Afghanistan, there has been a reluctance. Look, it is not a stable country. Nobody successfully ever really governed Afghanistan. So it is a challenge. We say we have free elections in Afghanistan. When we had free elections, the question was, were you free to oppose your local drug lord? The answer is in about 20 percent of the country. That is better than it was ever before in Afghanistan. At least people lined up to vote the way their local drug lord wanted them to vote. But that is not our traditional American way of democracy. I do not mean to demean it. I believe President Karzai is working at it.

But let us be real here. We have just seen the largest production of heroin out of Afghanistan out of anyplace in the world under our watch. We criticize the Taliban. The 3 years of the Taliban together do not equal what Afghanistan produced in heroin under our watch. We cannot sit here and twiddle our thumbs and pretend like this is not going to be a problem. Members of Congress are going to go over on CODELs and they are going to show us great progress. They do not have to grow any heroin for the next 2 or 3 years. They

have the biggest load in history. The Taliban said in their last year in power that they were going to grow zero amount of heroin poppy. To the best of our knowledge, they grew zero amount of heroin poppy. Why? They had such a stockpile with a fraction of what they have now, they did not have to grow any because if they grew it, there was no market. They have got it wholesaled and stockpiled. What is happening is if we do not get those stockpiles, we can have all the CODELs go over Congress that we want. They will come back here, they will go on Fox, they will go on CNN and say, the Afghanis are doing a great job of eradicating the poppy. It is irrelevant. The biggest amount, 4 years' worth of the world's supply has been grown this year and is being processed. We have to figure out where it is, take out the wholesale methods because what we are already seeing is, and our administration is starting to awaken and starting to go after this and the military is starting to grant this, but because we did not eradicate it a few months ago, it is now starting to move and it is into the countries around it so in our appropriations request, we have moneys in it to try to get it as it is moving and we are going to spend more money chasing this stuff than if we had tackled it a few months ago while we were asleep.

Now, we can never let this happen again and we need to work with the president of Afghanistan but it needs to be clear, you cannot be a narcostate. The people that are shooting at us, the people who are crossing over into Iran, the people that then move down into Iraq, where are they getting their money for their guns? This is not a hard thing. They are not growing other things. They are not doing other things. Every pistol, every RPG pretty much is funded by narcotics. This is going to become more and more the case as we move around, more human trafficking which leads us back to both problems on the southwest border.

Let me just go through one other aspect of the budget, because the budget has lots of good things in it in drug treatment. They have some good things in it with drug courts. They are sustaining the national ad campaign. But I have a deep fundamental concern. The ranking Democrat on our subcommittee the gentleman from Maryland (Mr. CUMMINGS) and I have done multiple letters to Members of Congress over the past few weeks, Dear Colleagues, from police chiefs. This is not a question about cutting drug dollars. This is a systematic, philosophical change of this administration in how they want to approach narcotics. What they have done are the following pieces. As I described at the beginning, there is a prevention component, an international component, a law enforcement component and a drug treatment. On drug treatment, they are fine. In international, they are fine. On the law enforcement and prevention, this budget is a disaster.

Let me give you first the prevention strategy. They have none. Their prevention strategy is this. These parts are fine: run national ads, do drug testing in the school, and have a flat-funded community coalitions and only the national part of the drug-free schools. What they have eliminated in the prevention program is the safe and drug-free schools program which is the program that drives directly down to the schools. They are only saving the national ones where Washington gets to make the decision which schools it goes to. The national ad campaign is basically flat-funded. The community drug coalitions are flat-funded. There is no coordinated vision of a prevention strategy. The biggest single component, bigger than the other components combined, is safe and drug-free schools and they zero out the local and State part.

That sets the tone for what is coming next, either flat-funding or zeroing out State and local. Then we get to law enforcement. Incredibly, there is no other way to say it but incredibly, they propose in effect to gut the HIDTA program by transferring it to OCADEF and then to eliminate and zero out Byrne grants which funds in many cases the drug task forces. They are then proposing, also, to cut back the dollars that go for equipment for local drug task forces, CTAC, and that when you put this together, along with a whole series of other smaller things that they are doing, let me describe briefly what the high intensity drug trafficking thing was and the philosophy and why we created a drug czar's office, because there are really two components to this. We created a drug czar's office in the United States because what happens to the FBI, what happens to the Department of Homeland Security, what happens to lots of different agencies is they are fair weather friends on the drug war. Their primary mission is not narcotics. The FBI's primary responsibility is organized crime. The FBI deals with multiple issues. Many times that is narcotics. But when other things arise, they are diverted. They are not fair weather friends in the sense of philosophically. They are fair weather friends that if the Attorney General says, boy, we have this problem over here, church burnings over here, missing children over here, national security interests over here, we have this problem of stolen patents over here, the FBI runs to those issues. They are not like the DEA. They do not have narcotics as their main enforcement. The Department of Homeland Security has so many missions, the Coast Guard alone can have their head spinning. They are supposed to protect a Great Lakes nuclear power plant, but if a sailboat tips over, they are supposed to run out there and also catch any fishermen. So they have a homeland security thing, a search and rescue which is still mostly what they do, and a fisheries component. And, by the way, catch any narcotics that are on the water. So they are running around. Narcotics is one of their missions but not their primary mission. The question was, we needed an office in the United States, a Cabinet level, that says drugs are my mission.

Inside the Department of Homeland Security we created a counternarcotics office because we need somebody in that agency who stands there with some staff, that is his staff, not detailees like is currently the case and unfortunately still the case with our bill today, who can sit at the table and say, hey, guys, don't forget about narcotics. Remember, homeland security is related to narcotics. With Mr. BONNER and others, we have the former head of the DEA, but we are not going to have that all the time at the office of Customs and Border Patrol. We have to have a systematic way that narcotics are built into the Department of Homeland Security and that we have a drug czar, a director of ONDCP, who focuses on the drug issue.

The HIDTA program was set up as a 50–50 vote. What we said is, let's send $2 million, $3 million to the city of Chicago. Then maybe the City of Chicago will have their local law enforcement people come in and we will get a unified center to pool our resources. So, for example, we stop these embarrassments like one where the distinguished junior Senator from New York, when she was the First Lady, was going shopping and they were about to do a drug deal where she was going in and potentially have a shootout, only the Secret Service was not integrated until we had HIDTA with how to share the information. Or many of us have heard stories about the FBI arresting the DEA because they did not deconflict, or national law enforcement arresting local law enforcement people after doing a 6-month case with thousands of dollars, finding out that the person that were selling and the person that were buying were both working for the government. So we run deconfliction centers. We have attracted local law enforcement in to coordinate. Because we said, look, if you come in here, we are a 50–50 partnership. We are going to set up these in the highest risk areas of the United States, along the southwest border, in the big cities. In New York City, we have consolidated homeland security and narcotics and we have a tremendous HIDTA that is regional across into New Jersey and Connecticut and New York and this budget would bust it up. It would just end it.

The police chief from Phoenix could not have said it more clearly at our hearing. He said, my mayor told me in city council that I have to cut my budget in the city of Phoenix for police. I have three people over at the high intensity drug trafficking area, the HIDTA. I realize they are doing the arresting. They are critical to our anti-narcotics efforts and our crime efforts. I asked him what they want in the city of Phoenix. He said, go after murder,

drugs and gangs. He said, they are all three the same thing. They are drugs. Eighty-five percent of the murders, all the gangs, they are all narcotics. So we kept the three people in the HIDTA and I cut other people. But let me tell you, you transfer this to OCADEF or another agency from HIDTA, they are gone. We had a cooperation agreement with the United States. The Justice Department says about OCADEF, which is a wonderful agency and has a function, but it is Washington-run. It does not have a 50–50. I asked them about that. They would not guarantee that. They do not have a plan. They do not know why. They do not have any evidence that the HIDTAs are not working. In fact, we have a 5 percent reduction in drug use around the United States. All these things are working reasonably well. They cannot list one single HIDTA that they want to get rid of. What they want is control of the funds and HIDTA does not give them control of the funds because the HIDTAs have, in Chicago I think it is $30 million invested from State and local and $3 million from the Federal. That is a wonderful deal, if we could leverage $3 million and get $30 million and we are seeing this in market after market.

So what does the administration propose to do it? Gut it. Then the Byrne grants are there. That is a complete zero out. My drug task force in my district does not exist without a Byrne grant. That is what keeps it there. That is what has kept it there for the last 10 years. Every year they have to spend a limited amount of coming in here saying, please deal with the Byrne grants because we keep proposing it. Every year we put the Byrne grants down. This is the year to say, Look, we're not going to change this program. Stop proposing it. We're not going to change. But this year because they are doing Byrne grants simultaneously with the HIDTA changes, simultaneously with nationalizing the drug-free schools programs, simultaneously reducing the money going to State and local law enforcement for equipment, what you see is a national strategy that I never thought I would see out of my party, which is Washington knows best because you guys at the local level just don't cooperate right.

And then they are eliminating the meth hotspots program. This is a program that is not authorized, that is not developed. So how did it get to be $35 million last year? I was told, well, these are earmarks and we don't like earmarks. Welcome to the real world. Congress does earmarks. I have been suggesting to them for several years, maybe, if it is a growing program and $35 million is now coming through in earmarks, you ought to come up with a meth strategy, because maybe Congress is going to pass it again. My prediction is that meth hot spots will still be there because the number one thing of anybody who has a district with meth is, I have got to go after this meth and I am going to go into the appropriations bill and I am going to earmark it because if the drug czar does not deal with it, if the Attorney General does not deal with it, if DHS does not deal with it, then I have to deal with it because nobody else has a strategy to deal with meth in my district. So the idea that they are going to zero out meth hot spots is a tad too cute for the budget. We are not going to eliminate the meth hot spots program. We have to figure out how to run a better antimeth program. We have to figure out if there are problems and making the HIDTAs more integrated with the national strategy and work with it. But democratic government and empowerment suggests that if you have got in the United States right now, every single police chief, every single anti-narcotics officer, we have checked, the head of the National Narcotics Officers Association has said, he does not know one person who is for the President's budget with this and he does not even know one narcotics officer in America who was asked.

At our hearing on this, the head of the National Narcotics Officers Association said this. The head of the Speaker's home HIDTA in Chicago said he had not been asked. A sheriff who heads the meth HIDTA in Missouri, who was recommended to us by our Republican whip, said he had not been asked. The head of the Baltimore-Washington HIDTA for this area said he was never asked. The vice chairman of the southwest border HIDTA, the police chief in Phoenix, said he had never been asked. If you do not talk to the southwest border, if you do not talk to the leadership's home HIDTAs, if you do not talk to a single narcotics officer in the United States, how do you have the gall to send us a budget to nationalize this?

It is really important that fellow Members of Congress send a clear message. We believe in State and local law enforcement cooperation with the Federal Government and that our antidrug efforts are working. We need a resounding vote for the success of this program and continue to improve it.

EDUCATION

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, today is May 17, 2005. On May 17, 1954, the United States Supreme Court issued a decision in the Brown v. Board of Education of Topeka, Kansas case. Last year we celebrated the 50th anniversary of this landmark case. I expect to be joined by some colleagues of mine from the Congressional Black Caucus tonight to again take advantage of this anniversary, the 51st anniversary, to highlight problems related to education. Not only education as related to the African-American community, to minority communities or to poor communities but education in general needs more attention in America. Whatever activities there are that allow us to focus attention on education, they are very noble and worthwhile activities with a very useful purpose.

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We need to spend more time focusing on the role that education plays in our society, and this is just one more occasion where we can do that.

I want to congratulate the people who participated last year in the 50th anniversary celebration. We had a marvelous array of people who joined in highlighting that landmark case's 50th anniversary: corporations, foundations, all kinds of groups participated in highlighting that landmark decision. I want to particularly congratulate the Library of Congress, which had an exhibit which ran from May 13 to November 13 last year, 2004, which was entitled, ''With an Even Hand: Brown v. the Board At Fifty.'' It was a fantastic exhibit which laid out the story in great detail, a lot of inspirational background and facts.

On May 17, 1954, the decision was issued declaring that separate education for children is inherently unequal. The Court held that school segregation violated the equal protection and due process clauses of the fourteenth amendment. African American activists laid the groundwork to challenge the racial segregation in public education as early as 1849 in a case called the case of Roberts v. the City of Boston, Massachusetts. The Brown case was initiated later and organized by the National Association For the Advancement of Colored People, the NAACP, recruiting African American parents in Topeka, Kansas, for a class action suit against the local board of education. In 1952, Brown v. The Board was brought before the Supreme Court as a combination of five cases from various parts of the country; it was not just Brown, but four other cases altogether; and they represented nearly 200 plaintiffs at that time.

The NAACP, through Brown, sought to end the practice of ''separate but equal'' throughout every segment of our society. It was to be a landmark decision. From education we went on to transportation, dining facilities, public schools, and all forms of public accommodation. So it was a decision that benefited us across the board, and I think we ought to take a moment to note the fact that it brought to all of us, brought to the attention of all of us the role of the Federal Government in education. It highlighted the fact that there is a major role that the Federal Government has to play in education. The Federal Government has always shown an interest in education. There are examples which I will talk about later of early, very early actions taken

by the Congress with respect to guaranteeing that States carried out some educational function.

On May 17, 1954, Chief Justice Earl Warren read the decision of the Court which stressed the importance of education in American life. This is going to read as if it was written yesterday. Chief Justice Warren said: ''Today, education is perhaps the most important function of State and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the Armed Forces. It is the very foundation of good citizenship. Today, it is the principal instrument in awakening the child to cultural values and preparing him for later professional training and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the State has undertaken to provide it is a right which must be made available to all on equal terms. Today these words ring equally true as we prepare our children to live and compete in the global economy.''

These are the words of Chief Justice Earl Warren in 1954. They show a great deal of profound insight and vision, and we are using the same language today and still having the same problem of convincing the American people, certainly those who make the big decisions about how we use our resources, that education should occupy the foremost place among our priorities for public activities.

I am going to later on deal with a case history involving my own State of New York, which directly runs contrary to statements made by Chief Justice Warren in 1954. In the great enlightened State of New York, which prides itself on leadership in so many other areas, the failure to provide a sound, basic education for the children of New York City is a major item of controversy that has been raging for the last 10 or 12 years. Today we are at a critical point where the Court has ordered the legislature to stop swindling the children of New York City and provide additional funding from State funds to make up for some of the failures of the past and to also continue providing the kind of education needed. That case I will come back to later as exhibit number one of what the problem in education is.

Regardless of whether we are talking about separate but equal, the lack of a decent education for minorities or the poor, or we are just talking about education in general, even the best education in America, the education offered in our best schools is inadequate; and every time we are measured against international standards, we are clearly falling behind. In the most powerful Nation in the world, in the Nation that rightly deserves the role of leadership, we are endangering ourselves and our future by failing to pay attention closely to education.

The Congressional Black Caucus has consistently provided the impetus, been the conscience of the Congress on matters related to education. We have always made education the number one priority of the Congressional Black Caucus, and that is still true today under the leadership of the gentleman from North Carolina (Mr. WATT), who is the president of the Congressional Black Caucus.

The emphasis is on closing gaps between a lot of different kinds of activities and services in America, closing the gap between the African American community and the mainstream community; but education is particularly singled out as number one, the need to close the gap related to achievement and opportunity in education. So we have again advanced that. There was a Congressional Black Caucus alternative budget; and in that budget, the stress was placed on education.

We chose in that budget to highlight the fact that there is $8 billion in the military budget for a missile system that most scientists and even military experts say is almost useless and never going to be fully completed, and that beginning with that $8 billion, we should be transferring funds for some of our other objectives, certainly those related to the fact of an overblown military budget, to critical measures such as education. The best final analysis will be an educated population. It is the best defense today; it will be even truer tomorrow as we go forward.

The Congressional Black Caucus particularly singled out one bill that was introduced by a group of us under the leadership of the gentleman from Pennsylvania (Mr. FATTAH), which is called the Student Bill of Rights. The Student Bill of Rights has been introduced in several sessions, and it was reintroduced just recently on May 5 of this year. The Student Bill of Rights may be called accurately by many other names. In the past I have used the language, The Opportunities to Learn bill. The Student Bill of Rights means that the government has a responsibility to provide an opportunity to learn or to provide opportunities to learn in every way possible.

When we break down the general Student Bill of Rights proposition, it breaks down into the right to have the necessary resources to be educated. The right to have the necessary resources means that we must start with decent funding for teachers' salaries so that the people who are actually doing the teaching, who are most important in the process, are paid reasonable salaries, can expect to have reasonable careers, will stay and make use of the investment we place in them to teach children. And as the world becomes more complicated, these same people will have an incentive to stay with their profession and get the additional education and be able to provide a more and more complex form of education.

So a bill of rights means an opportunity to learn. One of those opportunities has to be the opportunity for providing decent teachers and decent administration personnel and decent counselors. The whole apparatus of human resources for the school system comes first. But there are many other opportunities to learn which also must be taken care of.

The facilities. We need to have a decent place for teaching to take place. Yes, it is true that Aristotle, in the days of Aristotle and Plato and Socrates, they defined a school as being a log with a teacher on one end and the student on the other end. That was adequate. That is not adequate today in a world where we are trying to educate young people to play a role in this complex society of ours. We need laboratories. We need libraries. We need a physical infrastructure which houses all of this appropriately. That is as much a part of the opportunity to learn as anything else. A bill of rights for students means that that opportunity to learn should be there.

School construction is a vital part of the process. School construction and the failure to have adequate school construction has led to a situation where many, many teachers who are quite dedicated and people who want to remain in the school system leave the school system because, one, they are teaching in facilities which are outdated and make it difficult to teach; two, they are teaching in facilities which are endangering their health.

There are situations where the health of the children and the health of the teachers is endangered. Large amounts of asthma cases were found in certain areas in New York City. It has only been about 3 or 4 years since we eliminated the last coal-burning furnace in a school in New York. That took a drive and a whole campaign to highlight the fact that we still had coal-burning furnaces. Our high asthma rate often ran parallel, high asthma rates in children ran parallel to the schools with coal-burning furnaces. Teachers themselves were having respiratory problems and illnesses. So you cannot separate the physical facility from the whole process of education.

And, of course, most of our schools in a place like New York City and like New York City have very meager libraries. Elementary schools have rooms that are called libraries, but they are really not anything near the kind of libraries which are recommended by library professionals. The kind of libraries we will find in any suburban school we will not find in an elementary or junior high school within New York City and many other urban cities.

I use New York as an example because the case history there is very pertinent. The pattern of what has happened in New York City is a pattern of

what has happened all over the country. We have large concentrations of minorities and the poorest people in the cities, and that is where we have the worst education. Why? Because they are segregated? No. Even if you had maximum integration, we would still have the same problem, unless we deal with the problem behind the problem.

Why did we have segregation in the first place? Why did we need Brown v. Board of Education to end segregation? If the white power struggle insisting that we had segregated schools had been willing to raise the money and provide the resources to make every school for a nonwhite equal to the white schools, the issue probably never would have come up. It was the great disparity that existed between the schools for the African American students, the Hispanic students, and the poorest students of other minority groups, that great disparity which kept causing the problem.

The disparities were great when the schools were separate, and the unfortunate fact is that in 2005 those disparities still are great. You can go into any city, big city, and you will find several different classes of schools. You will find very good schools in some areas, and the poorest of schools in other areas, because of the fact that the problem is, the problem behind the failure of the education system in America is that the people with the power, those who make decisions in the Congress, State legislatures, in the city councils, in the executive offices of the President, the Governors and the mayors, those people who make the decisions and have the power to transform the school system do not really believe in public school systems anymore. They do not believe that they are vital.

When we believe things are important, we take action. We do not stand around and complain about how much they cost. We take the necessary action. When we wanted to put a man on the Moon, the extra billions of dollars that it took to put a man on the Moon was not an issue.

□ 2045

President Kennedy said we will go to the moon, and one President after another endorsed going to the moon and to outer space and on and on it goes, because we consider that important.

It is important, because it had a military objective if nothing else. At that time it had a military objective, and we were driven very much by the fact that the Soviet Union beat us into outer space. The Soviet Union sent Sputnik up circling the globe at a time when Congress and our executive branch said that the Federal Government should not be involved in education, that it is a matter for States, and the States would be offended if we got involved.

They looked at the situation and saw that the way the Soviet Union beat us into outer space was to build a system of scientific education. We produced a massive number of scientists and engineers who could do the job. So we had the Defense Education Act. Many Members of Congress are too young to remember. The Defense Education Act was the first great forward movement of the Federal Government into education.

The Defense Education Act provided funds down to the elementary, secondary level, and up to the colleges, to improve education in the areas of math and science. And if you do that, of course it helps to improve education overall, because the resources provided for education in math and science can be then transferred to other areas, and education would benefit overall.

Later on under Lyndon Johnson, it became more codified in terms of understanding that this Nation was embarking upon a venture in history which required a massive amount of people who had education. So Lyndon Johnson, of course, came forward with the Elementary and Secondary Assistance Education Act, which provided funding for the schools on the basis of helping the poorest schools, the recognition that if there was a fear that the Federal Government would take over education at the local level, then we should proceed only to help those local education agencies that had problems with poverty, they could not afford to educate all of their students, so the poorest districts were the beneficiaries of the Elementary and Secondary Education Act.

Title 1 is a major title under that, and that is still true today. Title 1 is primarily focused on the poorest schools. No Child Left Behind, which encompasses Title 1 now, focuses primarily on the poorest schools. So it is understood that the Federal Government has a role to play in education, it is understood that no nation at this point in history can survive unless it pays a great deal of attention to its education system.

There is an immediate threat that we are feeling economically already in the area of high-tech education, where we thought we will always be the leader, we will have the most people who are scientists and engineers in the information industry area, that always no one can catch us there and keep producing better and better technicians and scientists and our manufacturing operations and design operations would always be ahead of the rest of the world.

We still are ahead of the rest of the world. We still are. But there is a great problem that has already been introduced at the lower levels where you cultivate the programmers, the technicians, the first level scientists. They are finding in all of the information industries that they can get cheaper personnel at the same education level or even at higher education levels by going overseas to places like India and Pakistan, and the Chinese are learning English very rapidly themselves.

The most renowned university in the area of science and engineering and information industry now is not Massachusetts Institute of Technology, it is a university in India that is recognized in the world as being the leader in the field of science engineering that has overtaken and left MIT behind.

That is just one indication of what is happening in the world because there are people who clearly understand. But the people who make decisions in our Congress and in our State legislatures do not seem to want to understand. We want to spend billions of dollars more for missile systems that do not work, billions of dollars more for jet planes that already nobody can catch. I mean, we already have planes that nobody can keep up with anyhow, no other force, no other nation is manufacturing planes of the caliber of the ones that we have, but we want to go forward and do new ones.

We want to go and fight a war in Iraq, solving a problem that had to be solved in the worst and most expensive way. And last week we just voted another $82 billion dollars for the war in Iraq, bringing the total up above $300 billion.

So we are setting priorities, but the wrong priorities. No nation, no matter how powerful it is, and how rich it is, can endure by wasting its resources in the way that we are presently wasting ours. Instead of investing our resources in our people and our infrastructure, and our own Nation, we are wasting our resources in numerous ways and one of them of course is the war in Iraq which is a war that we certainly can never ever win.

The war in Iraq's best conclusion, peace, will mean that the Shiites, who are the predominant population, will take over. If you have democracy, they will have the votes, and they will take over, which is wonderful, democracy should work. Whoever is in the majority should be there.

It just so happens that the Iraqis are right next to Iran, which is a Shiite nation overwhelmingly ruled by Shiites, and they have their own agenda, which is not friendly to our Nation. So we are going to hand them some partners and hand them a nation as a result of our blundering in Iraq, trying to solve a problem with force that had to be solved in some other way.

But, let me return to the celebration, the recognition of this day as the day where the landmark decision of the Supreme Court, Brown v. The Board of Education was decided, and say again that it highlights a turning point.

It forced the issue up to the national level. And we are still struggling with that today. As I said before, the Congressional Black Caucus has followed through and continued to put it on a front burner before the Nation. We are the foremost advocate for education reform. We are willing to spend the money necessary for education. We are willing to take it away from wasteful expenditures in places.

And the concrete piece of legislation is our Bill of Rights, which I will talk about in more detail in a minute. But in the last alternative budget, the Congressional Black Caucus alternative budget, under Function 500, education and training, we alone had large significant increases for education.

School construction we said should be increased by $2.5 billion, at least. You really need to spend more like $10 billion a year for the next 10 years to just get our schools back to a reasonable level so that local and State governments can then take care of them.

There is a great deal of lack of resources at the State and local level, unlike ever before. Our State and local governments are broke. All of the more reason why our Federal Government, which has the most money, all funds are local, we do not make any money here in Washington really, we print something we call money but it is all based on what happens at the local level. All taxes come from the local level. People live some place in the Nation, who pay their income taxes, and their other taxes, and that generates what runs our Government.

So all taxes are local. The money does not belong to the Federal Government. And we should have a greater voice in spending the money for the priorities that benefit the greatest number of people at the local level, not for a military machine that is somebody's dream, a Star Wars dream, a military machine that is out of control, very poorly planned, could not even fight the limited war that it undertook in Iraq.

But getting back to the Congressional Black Caucus alternative budget. School construction, we proposed to spend $2.5 billion more. That is $2.5 billion more than zero. We are spending almost nothing on school construction now. We have some funds in the budget for charter schools. Charter schools are a favorite of the majority party, the Republicans like charter schools.

The President likes charter schools. So they went contrary to their own philosophy, because the philosophy and the rationale that they have used is that we should not get involved in funding school construction, because that is a local and State matter. But if you like charter schools, as they do, they are willing to go right ahead and fund charter schools at the State and local level because they like charter schools.

But the funding for charter schools is a small amount too, I assure you. No Child Left Behind, which is the encompassing Federal education program, Title 1 and all others, we propose another $12 billion for No Child Left Behind.

Elementary and secondary school counseling, we impose vocational education, $1.5 billion more. In that same area of Function 500, related to education is job training. Adult education, we propose great increases there.

Head Start we propose a $2 billion increase. Head Start has over and over again been certified and cited by numerous scientists, numerous scientists, I mean education scientists, numerous experts as being a very successful program. And yet we keep chopping away at it, evaluating it to death, and finding excuses not to fully fund Head Start. $2 billion increase in Head Start would still not fund all of the children who were eligible, but it would move us in that direction.

I might add that Head Start is not a program for minorities. Head Start is a program for poor children. And as a result, I would wager that at least 50 percent of the children who are served by Head Start now are not minorities, they are from the mainstream, they are poor. And it is important to have Head Start for them as it is for anybody else.

Individuals with Disabilities Education Act, we propose $2 billion. What is that? That is part of special education. Special education has become quite a problem at the local level, because the Federal Government has mandated that special education must be provided as a right to any child with disabilities. We mandated it. At the time that law was authorized and mandated, we said we would pay 40 percent of the costs. But we have never paid 40 percent of the cost. We are up to about 12 percent of the cost of special education.

So what we do is we mandate this, they must do it at the local level. It puts a strain on the local education agency's budget, and hostility is generated toward people with disabilities or children with disabilities as a result of the extra costs that is necessary to educate children with disabilities. We propose a $2 billion increase as we move toward the original authorization of 40 percent of the total cost.

Historically Black colleges and universities, we propose a $500 million increase there. Hispanic-serving institutions, $400 million increase. TRIO. TRIO is a program which helps to prepare youngsters for college and helps those who are in college to get off to a good start. We have found that in the year 2005, in the last few years, enrollment in colleges is going down rapidly among minority and poor students. We do not need enrollment going down, because in the final analysis, for a complex society the way you increase the pool of educated people is not by educating those who are normally going to be educated anyhow, the rich and the middle class are normally going to find ways to be educated. They always have. But as the demands on our society become greater for more educated people and more people, more education at different levels, you know, a plumber, a plumber's helper, all kinds of people need greater knowledge than they needed 20 years ago. If you do not educate that class, you are not meeting the needs of a modern society.

□ 2100

So the pool has to continue moving. The pool has to grow; and if you do not grow the pool, you are failing to build for the future.

Our children will spit on our graves when they look at how we have squandered so many billions of dollars on meaningless activities while our education system crumbled. They will wonder what happened to this generation, what were those men and women in Congress doing, where were their heads, how dumb were they, how stupid they were at looking at the situation and understanding the implications of where the world is going.

They will wonder why we chose to waste $300 billion on Iraq, a war which has been discredited by the fact that the President led us into it with a group of false assumptions, a war which we cannot win, a war which only hands the Iraqi nation over to Shiites which control Iran right next door. The kingdom of Iran will be expanded as a result of the end of this war.

We had a situation which backfired on us totally. They will wonder why we did it, why we were so dumb. Everybody makes decisions, whether they are in Congress or local legislatures and State legislatures or in the White House. Everybody who makes decisions should be held accountable. We are expected to have the information we need in order to go forward. So if our population in general is not wise or is greedy and they want massive tax cuts instead of expenditures for necessary infrastructure services, expenditures for education, if they are unaware of the implication of what is happening right now in China, what is happening in India and Pakistan, to say nothing of the Soviet Union, which is overlooked, we assume that the Soviet Union is standing still, but the massive education system of the Soviet Union has been cranked up again, and the Russians, the young Russians, are learning English rapidly, too.

We are concerned about Social Security. A displacement of our young working population will take place on the level of a tsunami. It will be so massive in about 10 to 20 years that we will just never know what hit us because outsourcing will be so much cheaper than hiring people who live and work in the country and pay taxes in the country.

Outsourcing to the Soviet Union, to India, to Pakistan, to China is a very interesting phenomenon. The Chinese have a Communist government still. They do not pretend they have a democratic government. They are Communists, and there were times when the business community of America, every businessman would foam at the mouth and go crazy if you mentioned communism or Communists having some kind of advantage. Yet our business community has embraced this Communist authoritarian, totalitarian regime fully, wholeheartedly because they can get a few extra pennies from the relationship, because they can profit greatly.

They have a program called Guided Capitalism, mongrel capitalism; but at

the top of it, you have a totalitarian, authoritarian group that is no different from the Communists who were there 50 years ago. They have enlightened ideas about economics. They are smart enough to know that they can build their economy on the backs of the American people and the American economy. They are even loaning us a great deal of money now to take care of our deficit. They are very bright people. After all, they have been in existence for more than 2,000 years as a unit. They have been operating together so they have the ability to see all of this and to proceed with these kind of machinations, which overwhelm this Nation and is not surprising; but we are smart enough, it seems to me, to wake up, and we must wake up, to the fact that the first threat of China is the educational threat.

When I was in grade school, I remember very vividly and was impressed by the fact that China was such a huge nation. It has always been a huge nation with a huge population, but the geography books kept repeatedly saying that China is a backward nation. The word ''backward'' sticks in my mind. China is a backward nation, but Chinese are backward people. Some kind of assumption in a young mind, you think, well, do they walk backwards. What does backward mean? Well, it was a racial slur. It was saying that they are inferior, the Chinese; but we know now if we did not know before that there are no inferior human beings on the planet.

Education makes the difference, and when you have a government like China's, even though it is a totalitarian, Communist, authoritarian government, it places a high priority on education. It knows that gaining a large amount of power over a short period of time is directly related to the number of people they educate.

Osama bin Laden, why are we so fearful of Osama bin Laden? Because Osama bin Laden is not some fanatic out there with a beard in the wilderness. Osama bin Laden is an engineer. Osama bin Laden is a well-educated man. The 19 murderers who crashed their planes into the World Trade Center and the Pentagon and headed for this Capitol, they were educated. The financing structure for al Qaeda is a very well-orchestrated financial structure. They are using experts. They are taking advantage of every weakness in America, every weakness in the developed nations, as well as the developing nations, too, of course.

We had earlier here tonight a presentation by one of my colleagues about the drug industry and the way in which the Afghan warlords are still being financed and the way in which the Islamic extremists are still being financed by drugs. Who is buying the drugs? Who are they manipulating in this situation but the developed nations?

So what I am saying is that at this point in history it would be wise for us to take note of Brown v. The Board of Education as an important time to each year examine where we are in education in general.

Segregation was the first problem, but the problem that caused segregation is still a major problem of education in America. The problem that caused segregation was the refusal of the power structure, those people who control the resources and the money, to provide the funds to equally fund and create equal education. If equal education had been created, if they had built schools in the black community which were as good as schools in the white community, if they had had salaries for the black teachers which were the same as the salaries for the white teachers, the administrator structure and everything else, you probably never would have had an issue being made out of segregation. But the very heart of the inequality is the failure and the refusal of people in power to use the resources for those who have no power and who have little power.

The failure in our big cities is that we have people in our big cities who are suffering because they have very little power. The people who are making decisions, the mayors, what we call the permanent government, the businessmen behind the scenes are who decide which candidates they are going to finance. Usually they place the highest on cutting taxes, keeping taxes low. It does not matter what the needs are. They used to be willing to sacrifice the school system and have an inferior education system, but now they are beginning to cut into the firemen and the police, and any public activity is now on target since they have gotten a taste of what tax cuts can do.

It is monumental greed that can only be counteracted by leadership, people elected, and people elected should have time to study the situation. People elected should be accountable to our children and our grandchildren about what kind of society we are building, and we should let the people who are greedy and selfish and do not want to pay another penny in taxes as a first instance, make them understand that they care about their children, they care about their grandchildren. We are like every other living thing in this world on this planet.

Our offspring, the continuation of our species, is a major concern of ours, a major motivation of ours; and when we take our resources and refuse to develop them, to promote a structure which is going to support the development of a society for our children and our grandchildren, we are doing them a great disservice.

Everybody talks about education. Everybody should be concerned about education. Education is very complicated and folks are trying to oversimplify it all the time.

The story of the blind men who were feeling an elephant and each one came to a different conclusion because of the part of the elephant they felt, they assumed that that could define the elephant. Well, in the case of education, it is just blind men feeling a dinosaur. There are so many different parts. It is so complicated until we should not oversimplify. We should not expect easy answers.

If a missile system can be tested again and again and each time it fails and one of its missiles explodes accidentally it is 18 to $20 million and we are willing to live with that, we should live with experimentation in our schools. We should live with systems that are not evaluated or up for evaluation every 2 years, but are given a chance to succeed.

In the New York Times today, May 17, 2005, research finds a high rate of expulsions in preschool. Kids in preschool are being expelled from school at a higher rate than children in the normal pattern from 1st grade to 12th grade. We have a difficult problem here. It is an increasing problem. Some say, well, we have got more kids in school so we have got different backgrounds. But basically, we have a problem taking place at the pre-kindergarten level which has already shown itself in the early grades and in junior high school and high school.

We have an excitement gap. We have children who live in a very electronically hyped world. They have television, all kinds of devices and gadgets. They go to school and it is too dull, and some of the brightest kids are some of the first who act out. It means that it is just one more area where more resources have to be put in instead of expelling kids, which is ridiculous. We should be finding ways and doing whatever is necessary to make sure that they are there.

I said before that the Indians, Pakistanis, a number of developing nations understand the need for education in order to develop their societies, their economies; but a greater threat still and more immediate threat I started to talk about and did not complete, and that is educating people who are extremists and people who hate our way of life, the people who are ready to die in order to destroy us. They are educating them, also. They know that a human being can be taught to become a brain surgeon, a bomb maker who then can be taught to effectively man a machine gun or fly a plane into the World Trade Center. Human beings have that capacity.

So you have what you call a network of madrassas. Ever heard the term madrassas? It is a new term. After 9/11 we discovered that there are schools in places like Pakistan and Afghanistan and Saudi Arabia and a number of other places where they are learning not just science, math and religion; but they are learning how to hate and learning how to be willing to sacrifice themselves if necessary against the infidels.

So you have a massive number of people at various levels who are seen as resources. If we do not see our own population the same way, everybody as a

resource for our goals, then we are going to also experience some of the same kind of problems internally that we are facing externally.

By that I mean you are going to have youngsters who live in America, who come to the American system, who hate America, who hate in general, who are willing to take up any kind of cause and fervently pursue it in some kind of suicidal venture. Yes, we can always defeat them and always have a strong Navy and Army and Marines, but we have to pay a very costly price if we do not understand that every human being deserves to be developed and should be developed for the benefit of the Nation, and his mind and his skills should be shaped in a way which benefits and not cut them off and ignore them and let them become driftwood.

□ 2115

We are increasing our expenditures at a much more rapid rate in our prison system than in our education system. We are willing to pay $20,000 to $25,000 a year to incarcerate an individual. We are the Nation now in the world with the largest number of people in prison, more than 2 million and climbing. It used to be mostly men, now we have an increase in the number of women who are in prison. That is a statement about the wrong way to educate, the wrong way to proceed in developing our population.

Mahatma Gandhi said, when he went to visit a big nation, a big city, he said where are your exploited people? Who is oppressed? And he was told by the mayor and leaders of the place at the city, we have no oppressed. He said, oh, yes, you do. Take me to your prisons and I will show you who are oppressed. Take me to your prisons, and the people there, the types of people there will be an indication of who is oppressed in your society.

Take me to your prisons and you will find African American males way out of proportion to their numbers in the population. You will find Hispanic males way out of proportion to their numbers in the population. Take me to your prisons and you will find $20,000 to $25,000 a year being spent on those individuals while we complain in New York City about spending $8,000 a year on children in the schools of New York.

I want to close by just quickly highlighting the Bill of Rights that I talked about that the Congressional Black Caucus sees as its centerpiece in its effort to maintain a high profile for education matters. As I said, the bill was reintroduced on May 5, 2005 by the gentleman from Pennsylvania (Mr. FATTAH) and numerous other sponsors. Among its findings is stated: A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and for achievement of the historical aspiration to be one nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of educationally inadequate or inequitable State public school systems in which high-quality public schools serve high-income communities and poor-quality schools serve low-income, urban, rural and minority communities. That is finding number one.

Finding number two. There exists in the States an ever-widening educational opportunity gap for low-income urban, rural and minority students characterized by the following: Highly differential educational expenditures among school districts; continuing disparities within the States in students' access to fundamentals of educational opportunity; radically differential educational achievement among public school districts within the States; and on and on it goes adding up to eight major findings that are part of the introduction to the Bill of Rights, H.R. 2178.

Mr. Speaker, at the conclusion of this special order I will submit for the RECORD the findings of the Bill of Rights for Education, as well as other items relating to this topic.

Finally, Mr. Speaker, I would like to conclude with the case history that I mentioned before, the case in New York City which points out exactly, in a specific example, what is wrong with our education system in America.

We have a rich State like New York. It is not a poor State at all. We have a huge budget. We spend large amounts of money on numerous items that could be considered optional and luxuries. We are now embarking on the building of a great stadium in Manhattan for one football team, the Jets, and for the Olympics, and the city proposes to put $100 million in, and the State will put $100 million in. They say the rest will be paid for by the Jets' ownership. But all estimates are that before it is over the city and State will put in more like $.5 billion in order to make it work. We are selling valuable real estate at pennies on the dollar, on State-owned property upstate. The Governor recently gave away a major property for $30,000, and on and on it goes. The money is there but the will and the power is not there to use the money for education.

In New York City, a case was brought more than 10 years ago by a group called the Committee for Education Equity, CFE. That committee won the case at the first level. Justice Leland DeGrasse ordered that the State must spend $5.6 billion in operating funds over the next 4 years. In addition to the State aid it was giving the city already, it had to give additional aid, and $9.2 billion in capital funds over the next 5 years to bring them up to par.

Why is this necessary? Because for the last 30 years the New York City students have been receiving less money per pupil than students in the rest of the State, and this is to correct an inequity, an injustice. It took the courts to do this. But the judge ruled it and the case has been thwarted and avoided for the last 3 or 4 years by the Governor of the State.

The Governor first appealed the case, and so it went to the appellate division of the New York State court system. That is the next level. The appellate division overturned the original judge's decision; said he was wrong, you do not need additional money because in New York State all you need to do is to provide an 8th grade education for students to be able to come out of school, get a decent job and function in the society that we have at this point. All you need is an 8th grade education is what the appellate decision decided.

Fortunately, the court system has checks and balances and there was one higher level above the appellate division which looked at the decision of the appellate division and said it was nonsense, and they supported the original decision by the original judge. So it went back to the judge to make the decision which he has made, ordering the State in 90 days, 90 days was some time ago, to come up with a plan to comply with the court order.

So the Governor appealed it again and he got a stay on the order on the basis of the fact that this one had particular figures in it, and so it has been sent back to the appellate division. Let me just sum up. The same level of the judicial system which decided that all you need in New York City and the State is an 8th grade education 2 years ago, they now have the case back in front of them as a result of the machinations of our Governor. And so I sent a letter to the Governor, to the Attorney General, to the Speaker of the Assembly of the State of New York, and to the majority leader of the State Senate and asked them all to please obey the law.

There is a question about the power of courts around here. We are having big discussions here in Washington about selecting judges, and we think in the final analysis sometimes we have had bad decisions; other times we have had beneficial decisions. But either way our court system is a magnificent system with a set of checks and balances built in, and the kind of effort being made in the Senate now to take away the minority's right to have a meaningful role in the selection of judges is going to jeopardize this.

But, presently, the courts are there and they ought to be obeyed. They ought to be obeyed. Sometimes judges order our legislatures to do things, and when they do not do them they fine the legislature so much per day for every day that they do not comply. There have been examples of this. And other times there are State governments and legislatures that have ignored courts and the courts have done nothing about it.

An historic example of Andrew Johnson being ordered by the Supreme Court of the United States to let the Cherokee Nation alone and not drive them off their land in Tennessee. Andrew Johnson ignored the Supreme

Court, and of course nothing was done about that. So we have a problem which needs to be clarified in law in our society. The courts ought to be obeyed. You go to the courts as a last resort.

So I wrote this open letter to Governor Pataki, the Attorney General, and the other people where I said please obey the law. New York's highest court has ordered the State of New York to provide New York City schools an additional $5.6 billion in operating expenses over 4 years, and $9.2 billion in facilities funding over 5 years to ensure that the city's children have their constitutional right to the opportunity for a sound basic education. And I go on and on to say that the case has been lingering; it has been 262 days since the court deadline was passed, and we would like some action.

Mr. Speaker, I will enter this letter to the Governor of New York State, Governor Pataki, for the RECORD, because it is an example of the kind of case which pinpoints the fact that the children of our Nation, the parents of our Nation, the people who care about education in our Nation are at war with a group of leaders and decision-makers who are the major problem. They do not want to understand in many cases, they do not understand in some cases, but they are the major impediment to the building of an educational system which will cost money. It will cost resources.

Folks talk about we are spending so much more than we used to spend. When Pearl Harbor was attacked, the United States owned only four vehicles, four cars. No airplanes for the President. Look where we are now in terms of our military apparatus, our governmental apparatus. The government moved on and the United States of America moved on. We produced what we needed for World War II. We won the war because we cared about it. It was vital. We went to the moon because we cared about it. It was vital. We can do anything we care about if it is vital.

We do not understand how vital education is and that is our central problem. The leadership, including the Members of Congress, have to come to grips with the problem that we are failing the generations to come by not providing an adequate education structure. The ruling in Brown v. Board of Education set off a domino effect which has built the knowledge that the Federal Government does have a role. It has a major role, and we must stop trying to thwart that role but cooperate with it in order to build a better Nation.

Mr. Speaker, at this point I will conclude and submit for the RECORD those documents I referred to earlier:

(a) FINDINGS—The Congress finds the following:

(1) A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and for achievement of the historical aspiration to be one Nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of educationally inadequate or inequitable State public school systems, in which high-quality public schools serve high-income communities and poor-quality schools serve low-income, urban, rural, and minority communities.

(2) There exists in the States an ever-widening educational opportunity gap for low-income, urban, rural, and minority students characterized by the following:

(A) Highly differential educational expenditures among public school districts within States.

(B) Continuing disparities within the States in students' access to the fundamentals of educational opportunity described in section 112(a).

(C) Radically differential educational achievement among public school districts within the States, as measured by the following:

(i) Achievement in mathematics, reading or language arts, and science on State academic achievement tests and measures, including the academic assessments described in section 113(b)(1).

(ii) Advanced placement courses offered and taken.

(iii) Scholastic Aptitude Test (SAT) and ACT Assessment scores.

(iv) Dropout rates and graduation rates.

(v) College-going and college-completion rates.

(vi) Job placement and retention rates and indices of job quality.

(3) As a consequence of this educational opportunity gap, the quality of a child's education depends largely upon where the child's family lives, and the detriments of lower quality public education are imposed particularly on—(A) children from low-income families; (B) children living in urban and rural areas; and (C) minority children.

(4) Since 1785, the Congress of the United States, exercising the power to admit new States under article IV, section 3 of the Constitution (and previously, the Congress of the Confederation of States under the Articles of Confederation), has imposed upon every State, as a fundamental condition of the State's admission, the following requirements:

(A) One, and sometimes two, square-mile lots in every township were to be 'granted and . . . reserved for the maintenance and use of public schools'.

(B) '[S]chools and the means of education [are to] be forever encouraged'

(C) 'State conventions [were to] provide, by ordinances irrevocable without the consent of the United States and the people of said States . . . that provision . . . be made for the establishment and maintenance of systems of public schools which shall be open to all children of said States'.

(See Ordinances of May 20, 1785, and July 13, 1787; Act of March 3, 1845, 28th Congo 2d Sess., 5 Stat. 789, Chap. 76 (admitting Iowa and Florida); Act of February 22, 1889, 50th Cong., 2d Sess., Chap. 180 (admitting States created from the Dakota Territories); and the Acts of Congress pertaining to the admission of each of the States.)

(5) Over the years since the landmark ruling in Brown V. Board of Education, when a unanimous United States Supreme Court held that 'the opportunity of an education . . . , where the state has undertaken to provide it, is a right which must be made available to all on equal terms', courts in 44 of the States have heard challenges to the establishment, maintenance, and operation of educationally inadequate or inequitable State public school systems. (347 U.S. 483, 493 (1954)).

(6) In 1970, the Presidential Commission on School Finance found that significant disparities in the distribution of educational resources existed among public school districts within States because the States relied too significantly on local district financing for educational revenues, and that reforms in systems of school financing would increase the Nation's ability to serve the educational needs of all children.

(7) In 1999, the National Research Council of the National Academy of Sciences published a report entitled 'Making Money Matter, Financing America's Schools', which found that the concept of funding adequacy, which moves beyond the more traditional concepts of finance equity to focus attention on the sufficiency of funding for desired educational outcomes, is an important step in developing a fair and productive educational system.

(8) In 2001, the Executive order establishing the President's Commission on Educational Resource Equity declared, 'A quality education is essential to the success of every child in the 21st century and to the continued strength and prosperity of our Nation. . . . [L]ong-standing gaps in access to educational resources exist, including disparities based on race and ethnicity.' (Executive Order 13190).

[From the New York Newsday, May 3, 2005.]

STATE REFUSES TO OVERTURN CFE STAY

(By Wil Cruz)

A state Appellate Division panel Tuesday refused to overturn a stay in Gov. George Pataki's appeal of a court order giving city schools billions of dollars in additional funding.

The court also said it would hear the appeal of State Supreme Court Justice Leland DeGrasse's order in October.

DeGrasse ruled earlier this year that city schools need an additional $5.6 billion in operating funds over the next four years and $9.2 billion in capital funds over the next five years to bring them up to par.

The Campaign for Fiscal Equity, which filed suit in 1993 accusing the state of short-changing city schools, had asked that the stay be lifted.

''Even though the stay was not lifted, we're gratified that the court granted our motion to expedite review of the case,'' Michael Rebel the group's executive director, said of the planned October hearing.

Pataki has maintained that in issuing his order, DeGrasse overstepped his judicial boundaries and failed to address accountability measures.

''Justice DeGrasse's ruling ignores important, fundamental, separation-of-powers principles and requires the state to spend too much and reform too little, so it's appropriate that it be reviewed by a higher court before taking effect,'' Kevin Quinn, a spokesman for Pataki, said in a statement Tuesday.

The Campaign for Fiscal Equity pushed to have the stay lifted in hopes of having the issue resolved in time for the upcoming academic year. Yesterday's decision eliminates that possibility.

AN OPEN LETTER TO GOVERNOR PATAKI ON LAW & ORDER FOR EDUCATION

April 19, 2005.

DEAR GOVERNOR PATAKI: I call on you to OBEY THE LAW. New York's highest court has ordered the State of New York to provide New York City schools an additional $5.6 billion in operating expenses over four years and $9.2 billion in facilities funding over five years to ensure the city's children their constitutional right to the opportunity for a sound basic education.

To properly shape the character and enhance the moral fiber of our children we beg

you, Governor Pataki, to show respect for law and order. You are an important role model in the lives of the youth of New York State. The spectre of public officials refusing to obey a court order baffles and discourages law-abiding citizens. We have been taught to believe that in America the courts have the power to render justice when all other avenues have closed. New York City students have been denied their fair share of funds for decades and now the courts have ordered that this injustice be corrected.

It's been 262 days since the CFE court deadline!

Governor Pataki, you have further deprived our kids by defying/appealing a court order to fairly fund our schools. The law clearly states the responsibility for giving a sound basic education to our children lies with New York State. As a public servant who has served for twenty-three years on the House of Representatives Education Committee, and prior to that, eight years on the Education Committee of the New York State Senate I want to stress the importance of this vital law and order moment in the history of New York State. After years of legislative deals, which resulted in great inequalities, the court has proclaimed justice. Along with other elected officials we urge you to OBEY THE LAW.

Please OBEY THE LAW. Set an example for our students, for our communities. Show them everyone must OBEY THE LAW.

Yours For Improved Education,

MAJOR R. OWENS,
Member of Congress.

CAFTA

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for a period not to exceed 60 minutes.

Mr. BROWN of Ohio. Mr. Speaker, nearly a year ago, President Bush signed the Central America Free Trade Agreement, a one-sided plan to benefit multinational corporations at the expense of American workers, U.S. workers, and Central American workers, businesses, small farmers, a whole bunch of us in all those countries, both in Central America and here.

Every trade agreement negotiated by the Bush administration, every trade agreement passed by this Congress since George Bush took office, Singapore, Chile, Morocco and Australia, every one of those trade agreements was voted upon in Congress within a couple of months of the time President Bush signed the agreement. CAFTA, the Central American Free Trade Agreement, some call it the Central American Free Labor Agreement, and you will understand that in a moment, has languished in Congress for nearly 1 year without a vote because this wrong-headed trade agreement offends both Republicans and Democrats.

Just look at what has happened with our trade policy in the last decade. In 1992, the first year I was elected to Congress, we had a trade deficit in this country of only $38 billion. That was in 1992. Last year our trade deficit was $618 billion. It went from $38 billion, and a dozen years later $618 billion. It is hard to argue that our trade policy is working with that kind of gargantuan swelling budget deficit.

Opponents to the Central American Free Trade Agreement know in fact it is simply an extension of the North American Free Trade Agreement, which clearly did not work for our country. It is the same old story. Every time there is a trade agreement, the President says it will mean more jobs for our Nation. The President says it will mean more manufacturing in the United States. The President says it will mean better wages for workers in the developing world, and as their standard of living goes up they buy more things from the United States.

Yet, with every trade agreement, from NAFTA through China, through every other trade agreement, those promises from the President fall by the wayside in favor of big business interests that simply send U.S. jobs overseas and export cheap labor abroad. According to President Bush, Senior, every billion dollars in trade, surplus or deficit, translates into 12,000 jobs.

□ 2130

So if you have a $2 billion trade surplus, you have a net increase in your country of $2 billion, times 12,000 jobs. You have a 24,000 job surplus increase if you have a $2 billion trade surplus.

But instead, we had a $38 billion trade deficit 12 years ago. Today we have a $618 billion trade deficit. So according to the way that President Bush Sr. figured out what these trade agreements mean, that means a job loss of 7.3 million jobs to our Nation.

You can see pretty much what that meant because many of those jobs, a large number of those jobs, are manufacturing jobs. Look at the red. The red here means greater than 20 percent manufacturing job loss in our Nation in only the last 6-or-so years. You can look at almost all the Northeast, much of the Midwest, all the textile manufacturing from the South, steel and auto manufacturing here, and steel in these areas, textiles in these areas, in State after State after State. You see this kind of manufacturing job loss.

So we are going to do more of these trade agreements so we see more manufacturing job loss? That is what the Central American Free Trade Agreement is all about. In the face of growing bipartisan opposition, and make no mistake about it, the Central America free labor agreement, Central American Free Trade Agreement, call it what you want, that agreement is dead on arrival when it comes to this Congress because large numbers of Democrats and Republicans oppose this agreement.

That is why the President, unlike all of the other trade agreements which were voted on almost immediately upon the President's signature, that is why this trade agreement has been languishing for 1 year. For 11 months and 20-some days, it has not been voted on. But this year the administration is trying every trick in the book to pass the Central American Free Labor Agreement.

For instance, the administration is linking CAFTA to helping democracy in the developing world. Defense Secretary Rumsfeld, Deputy Secretary of State Zoellick, both said the Central American Free Trade Agreement will help in the war on terror. Figure that out.

Ten years of NAFTA, 10 years of the North American Free Trade Agreement, has done nothing to improve border security between the United States and Mexico. That argument simply does not sell. The North American Free Trade Agreement did nothing for border security. We saw this kind of job loss since NAFTA, this kind of trade deficit since NAFTA, from $38 billion 12 years ago to a $618 billion trade deficit last year.

So the President's people tried to argue, tried to link the passage of CAFTA to making the world safe against terrorism. That did not work, so now just last week the United States Chamber of Commerce flew on a junket the six presidents from Central America and the Dominican Republic around our Nation hoping they might be able to sell the Central American Free Trade Agreement. Again they failed.

But they sent these six presidents to Cincinnati, to Los Angeles, to Albuquerque, back to Washington where they had a Chamber of Commerce reception at their very fancy headquarters, but that did not work because those six Central American presidents are not strong believers in CAFTA themselves.

The Costa Rican president, for instance, announced his country would not ratify CAFTA unless an independent commission determines that the agreement will not hurt the working poor of his country.

Understand what CAFTA is all about. The average income for an American is about $38,000. The average income for a Honduran or a Nicaraguan is less than one-tenth that. So think about that. A $38,000 average income for an American. And on that income many Americans can buy a washer and a dryer, and can begin to purchase a home, perhaps. Many Americans can buy a car and begin to put away in some cases a little money for a child for college or at least borrow some money and get them to college.

But on $2,000 or $3,000 an average wage in Honduras or Nicaragua, they are not going to buy cars made in Ohio and washing machines made in the U.S. or steel from West Virginia or software from Seattle. They are not going to be able to buy prime beef from Nebraska. They are not going to be able to buy textiles or apparel from Georgia. The fact is that this trade agreement is not about the U.S. selling products to Central America. It is about U.S. companies looking for cheap labor and outsourcing those jobs to Latin America. That is why we have this kind of

manufacturing job crisis. That is why we have this trade deficit that went from $38 billion 12 years ago to $618 billion today.

Get a look at these manufacturing job losses: 210,000 jobs lost in Michigan; 216,000 jobs lost in Ohio; 228,000 jobs lost, and these are just manufacturing jobs, not to mention what happens when a manufacturing job is lost. If a manufacturing job is lost in Lorain, Ohio, that means not just that man or woman loses a job. It means that family can no longer send their kids to college. It means that family can barely get along. They might lose their house. It means that town has lost a factory, which means higher school taxes; it means a layoff of police and fire. It means that education suffers. This kind of job loss, 200,000-plus in Ohio; 200,000-plus in Michigan; 200,000-plus in Illinois; 228,000-plus in North Carolina; 50,000 in Mississippi; 75,000 in Alabama; 100,000 in Georgia, that in most cases is about one in five manufacturing jobs in the State.

These numbers may not mean anything to Members of Congress; they are just numbers. But think about the families that lose these jobs. Think about the breadwinner coming home and saying to his wife, we lost this job, how do we clothe our kids? How do we pay for medical care, and what are we doing about the police and fire in our neighborhoods because this plant is shutting down? That is what this trade agreement is about. They are about workers in our country, and they are about workers in the developing world in Latin America.

About 5 years ago at my own expense, I flew to McAllen, Texas. I wanted to see the face of NAFTA. I knew all of the statistics about NAFTA. I knew the lost manufacturing jobs and what it did to my community in O'Leary, Ohio; but I wanted to see what it did in Mexico. So I rented a car in McAllen, Texas, and went across the border to Reynosa, Mexico, just to look at the face of free trade and what NAFTA had done along the U.S.-Mexican border.

I went to a home, and this was a shack maybe 30 feet by 20 feet, dirt floors, no electricity, no running water. This dirt floor turned to mud when it rained. The husband and wife both worked at General Electric Mexico 3 miles from the United States. If you walked back behind their home in this colonia, you would see other shacks that looked a lot like theirs. But as you walked through the neighborhood, as the gentleman from Arizona (Mr. FLAKE) knows, and he lives on a border State, you can tell where these workers work because their homes are constructed out of packing material, wooden crates and packing materials from the companies at which they worked, or from boxes to the suppliers for which they work.

I saw a ditch with two by fours running across it. Who knows what was running through the ditch, human waste, industrial waste. Children were playing in this ditch because children will play wherever children play. The American Medical Association said this area along the U.S.-Mexican border is the most toxic place in the western hemisphere, and yet these workers are working at General Electric Mexico 3 miles from the United States each making 90 cents an hour.

Nearby their home, I visited a General Motors plant. General Motors Mexico looks not much different from a General Motors plant in Lordstown, Ohio, or a Ford plant in Avon Lake, or a Chrysler plant in Twinsburg, Ohio. The workers are working hard, the plant is clean, the plant is modern. This plant in Mexico is more modern than many in the United States, but there is one difference between the plant in Mexico and the plant in the United States, and that is the plant in the Mexico does not have a parking lot because the workers cannot afford to buy the cars they make.

You can fly halfway around the world to Malaysia and to a Motorola plant and the workers cannot afford to buy the cell phones they make, or fly back halfway across the world to Costa Rica and go to a Disney plant and the workers cannot afford to buy the Disney toys for their children, or fly to China and go to a Nike plant and the workers cannot afford to buy the shoes they make.

Mr. Speaker, that is what makes our country great is because of trade unions. Because of a free democracy in this country, Americans share in the wealth. If you work for General Motors, a local hardware store, if you are a teacher, a nurse, you are creating value and creating wealth for your employer. If you are a private sector employee, you are creating wealth for the company. You share some of that wealth. You get health benefits and a decent wage. You can buy a house and a car.

If you work in a service job, you are creating value for those people whom you serve, and you get some wealth. You share in some of the wealth of the value that you create. That is why our system works. That is why these trade agreements do not work, because when we move these manufacturing jobs, the 216,000 in Ohio, a heck of a lot of those ended up in Mexico, and darn near all of them ended up as part of our trade deficit to China or Mexico or to somewhere else across the world.

Whenever those jobs are lost, they are typically jobs that are transferred; but those jobs do not create wealth for the people that get them in the developing world because they simply are not paid enough. If they are Ford workers in Mexico, they are not paid enough to buy the cars that they made. That is why these trade agreements do not work.

The most powerful Republican Member of the House, the gentleman from Texas (Mr. DELAY), the majority leader, joined by the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), said there would be a vote on the Central American Free Trade Agreement by Memorial Day. That marks the 1-year anniversary.

Remember at the beginning of my remarks I said all four trade agreements that this Congress has voted on since President Bush has been President, the trade agreements for Australia, Chile, Morocco and Singapore, all four were voted on within 60 days after the President signed them.

This trade agreement, the Central American Free Trade Agreement, has not been voted on for 11½ months. Members can see the CAFTA countdown, and in only a week and a half the Central American Free Trade Agreement will celebrate its 1-year anniversary. That tells me they simply do not have the votes to pass the Central American Free Trade Agreement.

So at the same time the self-imposed deadline from the majority leader, the gentleman from Texas (Mr. DELAY) and the gentleman from California (Mr. THOMAS), means they may call a vote before the end of the month. We are hearing they are going to delay it.

I ask, Mr. Speaker, as we can see by this calendar, a week away from the deadline with no vote in sight, what this should tell my fellow Members of Congress is that come May 27, we should scrap the Central American Free Trade Agreement, not that we should never do a trade agreement, not that we are against any kind of trade. We should scrap this trade agreement and renegotiate another trade agreement that will work for the American people.

Last month two dozen Republicans and Democrats in Congress joined more than 150 business groups and labor organizations in this city saying vote ''no'' on the Central American Free Trade Agreement. Last week more than 400 union workers and Members of Congress gathered in front of the Capitol saying vote ''no'' on the Central American Free Trade Agreement.

Why, because Republicans and Democrats, business and labor groups, know what the administration refuses to admit, and that is CAFTA is not about selling products abroad or exporting American goods because that simply has not worked. CAFTA is about one thing: it is about access to cheap labor and the outsourcing that goes with it.

Congress must throw out this dysfunctional cousin of NAFTA on this deadline this month, must throw out this dysfunctional cousin of NAFTA and negotiate a trade agreement that will lift workers up in Central America while promoting prosperity here in our country.

□ 2145

Instead of a loss for American workers and the kind of job loss we have seen in State after State after State, instead of a continuing to increase trade deficit, from $38 billion to over $100 billion to over $200 billion, to over

$300 billion, to over $400 billion, last year in 2003 over $500 billion, now a $600 billion trade deficit in this country, instead of these continued trade deficits, continued manufacturing job loss, Congress should throw out this dysfunctional cousin of NAFTA and negotiate a trade agreement that will lift up workers in Central America while promoting prosperity here at home.

Come May 28, we should bury the Central American Free Trade Agreement. We should renegotiate a new CAFTA so that we can negotiate and trade more with our neighbors on terms that will help lift up workers in all six of the NAFTA countries and in the United States.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I want to thank the gentleman from Ohio (Mr. BROWN) for his ever-present vigilance on issues that affect American workers and the American economy. I rise tonight to join him in objecting to CAFTA and in pointing out to the people why it is so important that CAFTA be defeated. All of these trade agreements have been about one thing and one thing only—cheap labor. Corporations create conditions where they help to pass these agreements so that they can move jobs out of this country and create jobs in other countries but the jobs in the other countries are not benefiting people because they are working, in some cases, far below the poverty level. CAFTA, as it was with NAFTA, creates conditions where workers have no rights. As a matter of fact, the trade agreements are written specifically to preclude workers having the right to collective bargaining, the right to organize, the right to strike, the right to decent wages and benefits, the right to a safe workplace, the right to be compensated if you are injured on the job, the right to a secure retirement, the right to participate in the political process. All of those are swept aside under CAFTA as they were under NAFTA.

What happens when jobs are created under these trade agreements? First of all, workers are working for a pittance. Secondly, they have no protections whatsoever. They are just basically human chattel. Third, there is no job security. They can be moved around. Beyond that, these trade agreements have no protections against child labor, prison labor, slave labor. They have no protections for the water or the air.

Mr. BROWN of Ohio. As the gentleman was talking, I am thinking about what he said a few nights ago. There is no protection for the environment, for workers, but there is very good protection in this bill for a group that is very powerful in this body and that is the prescription drug industry. My colleague spoke last week about what the drug industry did in Central America, what the United States Trade Rep did on behalf of the drug industry that gave them a whole lot more rights than workers get, a whole lot more protections than the environment get.

Would my colleague talk a little bit about that?

Mr. KUCINICH. Yes. The agreements are written so that corporations have protections and their patents have protections and people who need drugs in certain countries for their own health often cannot afford them because the patent protections are supplied to corporations under these trade agreements but countries cannot go ahead and make generic equivalents because it would challenge the way the trade laws are structured. So these trade agreements are never written to benefit people. They are written to benefit corporations. We have to remember that even in our own country, corporations often have greater powers than individuals. There was an 1895, I believe it was, Santa Clara County decision by the Supreme Court which basically ceded to corporations a whole range of rights that put them on equal status with people. Yet corporations do not want to recognize the fundamental human rights that workers have, the fundamental responsibility that we all have to protecting the environment, and so they are given privileges in this country to avoid responsibility for protecting our air and water, to avoid responsibility for protecting workers' pensions, to avoid responsibility for providing for a safe workplace. They often can get off on some of their violations. Yet these trade agreements basically create a race to the bottom on standards, on rights, on principles, on the environment. That is why it is absolutely critical that my colleague has been leading the way on this and I am glad to join him in challenging what this does to people.

There are moral principles here. These principles go beyond politics. Pope Leo XIII when he wrote Rerum Novarum talked about the rights of workers. Pope Paul VI when he wrote his encyclical Progressive Populorum spoke about how corporations have responsibilities. There are fundamental principles that are engrained in a Judeo-Christian ethic, in a body where we celebrate, we are told, these kind of principles which are a bedrock of our society, yet they are just swept aside in favor of profit. It is not supposed to be that way.

That is why so many of us stood with young people in the streets of Seattle to challenge the WTO. That is why people are gathering all over this country challenging the Central American Free Trade Agreement. That is why our brothers and sisters in Central America need us to stand up.

Yo creo que es muy importante pelear por los derechos de los trabajadores. It is very important to take a stand for the rights of workers.

Mr. BROWN of Ohio. Taking back my time for a moment, as we talked about a week or so ago, while the six presidents were flying around the United States on a junket paid for by the Chamber of Commerce and then met with President Bush and all, they mentioned a lot of things about CAFTA but they never mentioned the kind of opposition to the Central American Free Trade Agreement, not just from American workers but from workers in every one of those countries. There were demonstrations and protests of thousands of people in virtually every capital city in the six countries. To the point that the president of Costa Rica, as I said in my earlier remarks, the president of Costa Rica now is saying he does not want to see this ratified until he sees some real guarantees in this agreement that the poor in his country, and in his country there are a large number of very poor people, and the workers in his country will not be left out of the agreement. So far, they are left out and he is dissatisfied by that.

But I think when those presidents have come home, both when they left, they saw these kinds of demonstrations, huge opposition among the people of those countries, and that huge opposition has continued. This Congress should simply not believe when these six presidents are walking around after their Chamber of Commerce tour, when they came to our offices and argued for this Central American free labor agreement, my colleagues need to understand that just because those six presidents were for it does not mean their countrymen and countrywomen were.

Mr. KUCINICH. A member of congress from one of these Central American countries who will be meeting with a group of Congressmen soon so I do not want to release his name just yet, told me that when a bill that would help facilitate CAFTA came before the House in his country, that it was brought in at about 3 in the morning, that members did not have a chance to read it, that they did not know that it would facilitate the privatization of public services, for example, and that they were basically encouraged to vote for it sight unseen.

These are the kind of fundamental violations of democratic principles and democratic rights which we see people in Central America already suffering even before this agreement is passed. What happens is these corporations have so much power in these other countries that legislatures are steamrolled. Here in the Congress of the United States, people not only in Central America but in this country are depending on Members to stand up, depending on us to stand up for the basic rights of workers but also depending on us to stand up to stop the continued erosion of manufacturing jobs in this country.

As my colleague points out in his chart there on the trade deficit, it is obvious that NAFTA has not resulted in creating jobs in this country. It has resulted in taking good-paying manufacturing jobs out of this country. Those are jobs that supported middle-

class existence for many families. Those are jobs that helped sustain communities. Those are jobs that helped protect small business. Those are jobs that had health care benefits. Those are jobs that let people buy homes. Those are jobs that let people send their children to college. And now we are seeing our whole way of life adversely affected by these trade agreements. That is why CAFTA presents us with an opportunity to say, stop, stop, let's start to go back through the whole structure of trade agreements and demand that no agreement can ever exist unless it has fundamental protections for workers' rights, human rights and the environment, because frankly when corporations sweep those aside, that is how they make their profit.

Mr. BROWN of Ohio. Taking back my time, it is no surprise, or no coincidence, that as this trade deficit has increased from $38 billion the year I first ran for Congress 12½ years ago to last year's deficit of $618 billion, that is the same trajectory where we have seen health benefits cut, where we have seen workers in our country losing their pensions. When we lose these manufacturing jobs, every time a Ford worker loses his job or her job in Avon Lake or in Cleveland, that is often one fewer person in Ohio with health benefits, one less person that has a pension. These trade agreements clearly have pulled down the standard of living for way too many of my colleague's constituents and way too many of mine, way too many people in North Carolina where textiles and the apparel job loss have devastated their part of the country.

I want to make a prediction. My colleague made a statement a minute ago that in one of the Central American countries with whom we have negotiated this deal that legislation was passed in the middle of the night. I will make a prediction. Based on a lot of facts, the facts that every major piece of legislation, or virtually every major piece of legislation this Congress has considered the last 2 years, the debate started about this time of night, maybe even a little later, started about midnight, started around 1 o'clock, the debates on these very important issues, Head Start, money for veterans' benefits, money for education, $87 billion for Iraq, the major tax cuts, Medicare and the trade promotion authority. The last big trade agreement this Congress voted for, we voted in the middle of the night. The roll call was left open. It is normally only 15 minutes. The roll call was left open for well over an hour as the majority leader, TOM DELAY, strong-armed, cajoled, offered with a carrot, threatened with a stick, until he got two North Carolina Congressmen to change their votes. We have seen that over and over. My prediction is that when the Central American Free Trade Agreement, if it comes to this Congress in the next 6 weeks, even though it is already past this deadline, this self-imposed deadline, this 1-year anniversary of the signing of CAFTA, whenever it comes, either by the end of this month or the end of next month, you can bet that that is going to be a middle-of-the-night vote where there is incredible political pressure, where there are threats, where there are transfers in some cases, promises on one bill, on the Medicare bill, promises of campaign cash on the House floor as claimed by one of my colleagues, a Republican from Michigan, where there are all kinds of goodies offered to this Member of Congress or that Member of Congress to get a vote. I am just terrified that even though the American people clearly do not like the Central American Free Trade Agreement, even though the American people recognize the kind of job loss that our State of Ohio and so many other States, especially the States in red, have been hit the hardest, with all this job loss, with all this opposition from the American people and from Members of Congress that the administration will do what it did with trade promotion authority and offer all kinds of things to these Members of Congress to get them to change their vote and vote the opposite of what they have promised and vote the opposite of what their constituents asked them to.

Mr. KUCINICH. Mr. Speaker, when I was traveling the country, I had the opportunity to visit many areas around America. I would stand in front of plant gates that were padlocked. I saw grass growing in parking lots which were once filled with cars, where workers would go into a plant and they would make steel, cars, washing machines, sewing machines, truck bodies. And now their plant gates are padlocked and there is grass growing in the parking lots. All of America is littered with the rusting hulks of huge manufacturing plants. Yet there are many people who remain in those communities who have the ability to do the work. It is not that there is no work to be done. It is not that we are not consuming the very products which were made once in America. But they are being made now elsewhere at a fraction of the price, where workers are underpaid, where they have no rights.

□ 2200

When we started years ago challenging these trade agreements, some of us were told, well, you are being an isolationist; we have to have trade. Well, it is true, we do have to have trade; but we have to have fair trade. We have to have trade which respects the undeniable fact that all people are interdependent and interconnected. These trade agreements create a divide, a chasm, between the very wealthy and the increasingly poor. These trade agreements have helped to bring about the destructive undermining of America's middle class.

So when you look at that map, I say to the gentleman, and you can see not only various colors of States, depending on how many jobs they have lost, but behind those statistics are individual stories of dreams that were shattered, of families that were broken, of opportunities that were denied, of futures that were totally changed, of the American Dream being dashed, of the American Dream being dashed. That is why we are standing here tonight, challenging CAFTA and, by reference, all of the other trade agreements that have passed.

Mr. BROWN of Ohio. Mr. Speaker, I will close as I just listen to my friend talk about seeing this country as he has seen it up close, and we all have seen it. Again, these are all numbers, 200,000, 200,000, 57,000, trade deficits of billions and tens of billions, hundreds of billions of dollars; they are all numbers. But I think almost every Member of Congress, those of us that really get out in our communities, and that is most of us on both sides of the aisle, really have seen the kind of pain that people suffer when someone loses a job after being in a plant for 30 years and loses their pension or loses their health benefits, and they are 58 years old and they cannot get Medicare yet. Or they are 35 years old and they cannot send their kid to school, they had been saving a little bit of money: all that that means for those children, for those families, for those school districts that have lost that revenue when a plant closes, for those communities that can no longer protect their citizens with adequate police and fire protection. These are real people, these are real jobs, real communities, real people, real dreams, real lives.

When I think about our trade policy and what we have done, and our trade policy has always been for years to outsource jobs, to lose our manufacturing jobs, shut these plants down, encourage these companies to hire cheap labor in the developing world, do not really give those people any chance, because they are not paying them enough money. My definition of successful trade policy is that when the workers in poor countries cannot just make American products, make products that they export back into the United States, but that those workers can actually buy products made in the United States, then we will see a trade policy which lifts those workers up so they have a decent standard of living in Guatemala or in India or in Mexico, and, at the same time, lifts our workers up so we can continue our strong food safety standards, environmental standards, worker rights, and wages in our country.

Mr. KUCINICH. Mr. Speaker, before we conclude, it appears to me that there is an opening here for this Congress, that at a time when we are challenging these trade agreements, we have an opportunity to present an alternative. That alternative should not just be creating a new architecture for trade with workers' rights, human rights, and environmental quality principles; but that alternative should also

include an American manufacturing policy, a new one, a new American manufacturing policy which declares that the maintenance of steel, automotive, and aerospace is vital to our national security; that for that reason, we should be thinking in terms of rebuilding automotive, with cars that are more fuel economical. We should be thinking of rebuilding steel, because we consume so much steel in this country; there are so many mills that we could actually bring back to life. We should be thinking about rebuilding aerospace, not shipping jobs overseas. Right now, our trade deficit with China is approaching about $160 billion, is it not?

Mr. BROWN of Ohio. Slightly over that.

Mr. KUCINICH. Right. China at this moment is organizing its economy to be able to excel in steel, automotive, and aerospace because Chinese leaders recognize that it is those very industries that enabled America 50 years ago to achieve preeminence in all the world. So we need a new American manufacturing policy, and we need a new policy which rebuilds our infrastructure. Just as FDR understood that the New Deal was an opportunity to put millions of people back to work, we should create a deal where we rebuild our infrastructure, where we rebuild our bridges, our water systems, our sewer systems; where we rebuild parks and hospitals and schools; where we rebuild America's infrastructure and create millions of new jobs, and then that would be an investment that would enable people to go back and start factories again.

Mr. Speaker, we need a new direction in this country. We need a new approach with our economy. We have to do something about this trade deficit, but we have to make sure that our basic infrastructure is strong to help create productivity; and we also have to do something about our tax system, which is incentivizing the movement of jobs out of this country, our tax system where 34 percent of the tax cuts go to the top one percent.

Also, we have to recognize, as some of our major industries are recognizing, that if we are going to protect industry in this country, then we have to have a universal, single-payer health care system. Because we know right now that the automotive business is in trouble in part because of the health care costs. We need a system where everyone is covered; that would help American manufacturing as well.

And we need to protect people's retirement security. It is absolutely a disgrace that the Pension Benefit Guaranty Corporation right now has over $26 billion in the hole, and that they have over $100 billion in unfunded pension liabilities they are facing, and all the corporations in America are looking right now to dump their pension obligations on the government. Right now people over 55 years old have the lowest level of savings; for seven consecutive quarters, it is at $10,400. It is the lowest consecutive quarter since 1934. So people's savings are being undermined, their pensions are being lost, and now there is an attack on Social Security.

All of this fits together. We have to have an holistic view and vision of what our country needs. We need to have health care and retirement security. We need to have retirement security. We need to rebuild our infrastructure and have a new manufacturing policy. But we need to first take care of business, which means standing up here, challenging CAFTA and saying we are going to use the defeat of CAFTA as an opportunity for a new beginning in the American economy.

I want to thank my good friend, the gentleman from Ohio (Mr. BROWN), for the leadership that he has shown on this; and I want to tell him what an honor it has been to be on the floor with him this evening.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio (Mr. KUCINICH) for his leadership on this whole array of issues. I would summarize by echoing what he said, that as the CAFTA countdown, as CAFTA is buried at the end of this month, the 1-year anniversary of CAFTA, it is important as we defeat CAFTA that we look at all of those issues that the gentleman from Ohio (Mr. KUCINICH) talked about, and especially that we think about a new trade agreement with Central American countries that lifts workers in both, in all seven of our countries, lifts workers' standards, lifts environmental standards, helps workers and families and communities in all of the Central American Free Trade Agreement countries, and in our country. It can be a win-win for all of us, instead of the kind of downward slide that we have seen in our trade policy.

SOCIAL SECURITY

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. KUCINICH) is recognized for 60 minutes.

Mr. KUCINICH. Mr. Speaker, this evening, as American families settle in, and many workers have turned in, the American people will go to bed hoping that this Congress has the intention and the fortitude to stand up and to protect the people's right to a secure retirement. There is a great skepticism across this land about the plans to privatize Social Security.

Social Security, when it was created in 1934, was created as an insurance program. It was not an investment program; it was an insurance program which would ensure against people being too old to work, an insurance program which would ensure against being injured on the job and not being able to work again, an insurance program which would ensure that if a family lost a bread winner to a tragedy, that the family would still have an ability to survive and that the children would have benefits covered until their late teens.

Social Security has been the most successful social program that this country has ever seen.

Now, why was it created? We have to go back to the time of the Depression, a time when this country saw the New York Stock Exchange lose over 80 percent of its value in a period of about 4 years. That people lost their homes, they lost their farms, factories were closed, people lost their jobs, they lost their pensions. People were basically stripped bear with the curse of nothingness. One out of four Americans was without a job. There were hundreds of thousands of children who did not have a place.

From the ashes of the Great Depression arose a leader who recognized that the function and purpose of a democratic society is to make sure that people have economic security, the security of a job, the security of a home, and the security of a solid retirement. When Franklin Roosevelt brought forward this proposal to create Social Security, it was brought forward not to give to people some kind of a welfare program, and I do not object to welfare, but it was not created as a welfare program. It was always based on what people paid in. And so Social Security became a new hope. It helped lift generations of elderly out of poverty. Do my colleagues know that today, 50 percent of the elderly would be living below the poverty line if it were not for Social Security. Social Security was created as a means to make sure that when people got into their later ages that they would have the ability to support themselves.

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Mr. Speaker, we heard the mythology when we were growing up of old folks homes, of poor houses, of people who when they became elderly were destitute and had no opportunities. Well, Social Security was what transformed the American economic landscape, helped lift people up out of poverty, helped guarantee that the sense of interdependencies, which is essential to the creation of the United States, was reflected in this social program that had a powerful economic component, retirement security.

The very words, the United States, which we celebrate here in this Chamber were not simply about the unity of 13 geographical territories nor are they today simply about the unity of 50 geographical territories, they are about human unity.

They are about our responsibility for each other. They are about each of us being our brother and our sister's keeper. Social Security brought that philosophy right into the government of the United States. And in doing that, that elevated the purpose of government of the people. That is the power and the beauty of what Social Security has represented.

And so when there is an attempt to try to change Social Security's nature or create a privatization program that will divert Social Security resources to set up private accounts, it is absolutely essential that we look back to history for the reason why Social Security was itself created.

Today, workers, 6.2 percent of their income goes to Social Security. Employers put in 6.2 percent, a total of 12.4 percent. Those financial resources which come from workers today, 88 percent of the money that we put into Social Security goes directly to the workers, and 12 percent goes into the trust fund.

Social Security is dependent on that financial structure to be able to remain solvent. Now, what happens if you divert 4 percent to create private accounts? Well, if you take 4 percent away from Social Security, you are left with only 8 percent total funding or a little more than 8 percent, and it makes it absolutely impossible to be able to meet the needs of Social Security. So what does that mean?

That means that you end up with people experiencing a cut in benefits. So any privatization of Social Security will result in benefit cuts. Now, the administration has talked about a 4 percent cash out. But what they have not told the American people is by carving out 4 percent you are taking money out of Social Security.

Now, the administration wants to borrow $2 billion to set up private accounts. That money is going to have to be paid back. Is not our national debt already high enough? Why in the world would we want to add another $2 trillion to it, but yet the plan to privatize Social Security would do just that. We would be borrowing money so people could invest in the stock market.

Imagine if any of us went to our neighborhood bank and we said we wanted to take out a loan. And they said why? Because we want to invest in the stock market. Well, that is what our government would have the American people do, to borrow $2 trillion so we could invest in the stock market.

If you carve 4 percent out of Social Security, it creates a condition where Social Security will not have enough money to pay benefits. Now, we have all heard this story about Social Security is broke. That is not true; that Social Security is going bankrupt. That is not true. Let me tell you why it is not true. It was just over a month ago that the Social Security Administration's own actuaries issued a report which shows that the Social Security Trust Fund has about $1.7 trillion in assets right now. The Social Security Trust Fund has those resources.

Those assets will grow to over $6 trillion by the year 2028. That is hardly a fund that is broke. The Social Security Administration's own actuaries, in their report, indicate that Social Security will be rock solid through the year 2041 without any changes whatever.

The Congressional Budget Office, which is a bipartisan budget office, has said that Social Security will be rock solid through the year 2052 without any changes whatsoever. No need to create private accounts. This is not a non solution, it creates a problem.

And the difference between the two projections of when Social Security will be able to pay a hundred percent are strictly differences that are due to underlying economic assumptions.

The Social Security actuaries are predicting that over a period of 75 years the American economy will only grow by 1.3 percent. Think about that. If it grows only by 1.3 percent, is that consistent with investing in the stock market? Of course not.

Everyone understands that Social Security is insurance, but investments are inherently risky. If you want to invest, fine. But people have to remember the market goes up, the market goes down. People must remember that the market is not a sure thing. The market has had periods of advance and decline. Sometimes the benefits that people would get in a high market might be 6 times what they might get when the market is low.

So, Mr. Speaker, I want to thank you for the opportunity to begin to introduce this discussion tonight about Social Security and speak out about the problems of privatization and why the American people ought to be very concerned that Social Security not be privatized.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 109–84) on the resolution (H. Res. 283) providing for consideration of the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today until 3:00 p.m. on account of business in the district.

Mr. LEWIS of Georgia (at the request of Ms. PELOSI) for today after 1:00 p.m. and the balance of the week on account of a family medical emergency.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and the balance of the week on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, May 24.

Mr. NORWOOD, for 5 minutes, May 19.

Mr. POE, for 5 minutes, May 18.

Mr. BURTON of Indiana, for 5 minutes, today and May 18, 19, and 20.

Mr. MARCHANT, for 5 minutes, today.

ADJOURNMENT

Mr. SESSIONS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 23 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 18, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1983. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Kentucky Regulatory Program [KY-248-FOR] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1984. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 Meters) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 041805D] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SESSIONS: Committee on Rules. House Resolution 283. Resolution providing for consideration of the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes (Rept. 109–84). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TURNER (for himself, Mr. SHAYS, Mr. TOM DAVIS of Virginia, and Mr. DENT):

H.R. 2385. A bill to make permanent the authority of the Secretary of Commerce to conduct the quarterly financial report program; to the Committee on Government Reform.

By Ms. HART (for herself, Mr. POMEROY, Mrs. JOHNSON of Connecticut, Ms. HOOLEY, Mr. ENGLISH of Pennsylvania, Mr. CHOCOLA, Mr. LEWIS of Georgia, Mr. FOLEY, Mr. SAM JOHNSON of Texas, Mr. CARDIN, Mr. MCCRERY, Mr. RYAN of Wisconsin, and Mr. NEAL of Massachusetts):

H.R. 2386. A bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001; to the Committee on Ways and Means.

By Mr. KENNEDY of Minnesota (for himself and Mr. PETERSON of Minnesota):

H.R. 2387. A bill to provide an exemption from certain requirements under the Gramm-Leach-Bliley Act; to the Committee on Financial Services.

By Mr. GREEN of Wisconsin:

H.R. 2388. A bill to amend title 18, United States Code, to provide assured punishment for violent crimes against children, and for other purposes; to the Committee on the Judiciary.

By Mr. AKIN (for himself, Mr. MCINTYRE, Mr. ADERHOLT, Mr. BACHUS, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mr. BILIRAKIS, Mr. BISHOP of Utah, Mr. BISHOP of Georgia, Mrs. BLACKBURN, Mr. BLUNT, Mr. BOEHNER, Mrs. BONO, Mr. BOOZMAN, Mr. BOUSTANY, Mr. BRADLEY of New Hampshire, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Ms. GINNY BROWN-WAITE of Florida, Mr. BURGESS, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CANTOR, Mrs. CAPITO, Mr. CARTER, Mr. CHABOT, Mr. CHOCOLA, Mr. COBLE, Mr. COLE of Oklahoma, Mr. COSTELLO, Mr. CRENSHAW, Mrs. CUBIN, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DAVIS of Tennessee, Mr. TOM DAVIS of Virginia, Mr. DELAY, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. DOOLITTLE, Mrs. DRAKE, Mr. DUNCAN, Mr. EHLERS, Mrs. EMERSON, Mr. EVERETT, Mr. FEENEY, Mr. FERGUSON, Mr. FORBES, Mr. FOSSELLA, Ms. FOXX, Mr. FRANKS of Arizona, Mr. FRELINGHUYSEN, Mr. GARRETT of New Jersey, Mr. GERLACH, Mr. GINGREY, Mr. GOHMERT, Mr. GOODE, Mr. GENE GREEN of Texas, Mr. GUTKNECHT, Mr. HALL, Ms. HARRIS, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HENSARLING, Mr. HERGER, Mr. HOSTETTLER, Mr. HULSHOF, Mr. HUNTER, Mr. HYDE, Mr. ISSA, Mr. ISTOOK, Mr. JENKINS, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KELLER, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. KLINE, Mr. LAHOOD, Mr. LATHAM, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. LOBIONDO, Mr. MANZULLO, Mr. MARSHALL, Mr. MCCOTTER, Mr. MCHENRY, Mr. MCHUGH, Mr. MCKEON, Mr. MICA, Mr. GARY G. MILLER of California, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. NUSSLE, Mr. OTTER, Mr. PAUL, Mr. PEARCE, Mr. PENCE, Mr. PICKERING, Mr. PITTS, Mr. PLATTS, Mr. PRICE of Georgia, Mr. PUTNAM, Mr. RADANOVICH, Mr. RAHALL, Mr. RAMSTAD, Mr. REHBERG, Mr. RENZI, Mr. REYNOLDS, Mr. ROGERS of Kentucky, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Ms. ROS-LEHTINEN, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SHADEGG, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMPSON, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SODREL, Mr. SOUDER, Mr. STEARNS, Mr. SULLIVAN, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. TIAHRT, Mr. UPTON, Mr. WALDEN of Oregon, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WHITFIELD, Mr. WICKER, Mr. WILSON of South Carolina, Mr. WOLF, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, and Mr. TIBERI):

H.R. 2389. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. MCGOVERN (for himself and Mr. SHAYS):

H.R. 2390. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. BURTON of Indiana, Mr. PAYNE, Mr. STARK, Ms. LEE, Mr. MCDERMOTT, Mr. MENENDEZ, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. GRIJALVA, Mr. SANDERS, Mr. HASTINGS of Florida, and Mr. WEXLER):

H.R. 2391. A bill to provide for the reduction of mercury in the environment; to the Committee on Energy and Commerce.

By Mr. BONILLA:

H.R. 2392. A bill to provide for a continuation of the mission of the Department of Veterans Affairs medical center in Kerrville, Texas, including the maintenance of acute care beds at that medical center; to the Committee on Veterans' Affairs.

By Mr. CHOCOLA (for himself, Mr. BARTLETT of Maryland, Ms. GINNY BROWN-WAITE of Florida, Mr. CALVERT, Mrs. KELLY, Mr. KENNEDY of Minnesota, Mr. KLINE, Mr. MACK, Mr. MCCAUL of Texas, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. PAUL, Mr. SOUDER, Mr. TURNER, and Mrs. CUBIN):

H.R. 2393. A bill to amend chapter 85 of title 28, United States Code, to provide for greater fairness in legal fees payable in civil diversity litigation after an offer of settlement; to the Committee on the Judiciary.

By Mr. COSTA:

H.R. 2394. A bill to suspend temporarily the duty on Spirodiclofen; to the Committee on Ways and Means.

By Mr. COSTA:

H.R. 2395. A bill to suspend temporarily the duty on Propamocarb HCL (Previcur); to the Committee on Ways and Means.

By Mr. COSTA:

H.R. 2396. A bill to extend the temporary suspension of duty on Imidacloprid pesticides; to the Committee on Ways and Means.

By Mr. COSTA:

H.R. 2397. A bill to extend the temporary suspension of duty on Trifloxystrobin; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois:

H.R. 2398. A bill to provide fairness in voter participation; to the Committee on the Judiciary.

By Mr. DEFAZIO (for himself, Mrs. CHRISTENSEN, Mr. CROWLEY, and Mr. HINCHEY):

H.R. 2399. A bill to establish an Office of Health Care Competition within the Department of Health and Human Services to administer the National Practitioner Data Base and to collect and make available to the public more information on medical malpractice insurance under that Data Base; to the Committee on Energy and Commerce.

By Mr. DEFAZIO (for himself, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. HINCHEY, and Ms. HOOLEY):

H.R. 2400. A bill to establish an Emergency Malpractice Liability Insurance Commission; to the Committee on Energy and Commerce.

By Mr. DEFAZIO (for himself, Mr. BAIRD, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. HINCHEY, and Mr. TAYLOR of Mississippi):

H.R. 2401. A bill to modify the antitrust exemption applicable to the business of insurance; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania:

H.R. 2402. A bill to suspend temporarily the duty on Desmodur IL; to the Committee on Ways and Means.

By Mr. GENE GREEN of Texas:

H.R. 2403. A bill to suspend temporarily the duty on Chloroacetone; to the Committee on Ways and Means.

By Mr. GENE GREEN of Texas:

H.R. 2404. A bill to reduce temporarily the duty on IPN (Isophthalonitrile); to the Committee on Ways and Means.

By Mr. GENE GREEN of Texas:

H.R. 2405. A bill to suspend temporarily the duty on NOA 466510 Technical; to the Committee on Ways and Means.

By Mr. GRIJALVA:

H.R. 2406. A bill to suspend temporarily the duty on Hexythiazox Technical; to the Committee on Ways and Means.

By Mr. LARSEN of Washington:

H.R. 2407. A bill to modify the boundary of the San Juan Island National Historical Park; to the Committee on Resources.

By Ms. ZOE LOFGREN of California (for herself and Mr. DOOLITTLE):

H.R. 2408. A bill to amend title 17, United States Code, to allow abandoned copyrighted works to enter the public domain after 50 years; to the Committee on the Judiciary.

By Ms. MATSUI (for herself, Mr. STARK, and Ms. ZOE LOFGREN of California):

H.R. 2409. A bill to amend part D of title IV of the Social Security Act to modify the calculation of the child support automation penalty and provide for the reinvestment of any such penalty; to the Committee on Ways and Means.

By Mr. MCDERMOTT (for himself, Mr. STARK, Mr. BROWN of Ohio, Mr. DEFAZIO, Mr. RANGEL, Mr. HINCHEY, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. WEXLER, Mr. FARR, Ms. BALDWIN, Mr. ANDREWS, Mr. FILNER, Mr. INSLEE, Mr. SERRANO, Ms. WOOLSEY, Mr. BLUMENAUER, Mr. STUPAK, Mr. HONDA, Mr. UDALL of New Mexico, Mr. FRANK of Massachusetts, and Mr. MARKEY):

H.R. 2410. A bill to require certain studies regarding the health effects of exposure to depleted uranium munitions, to require the cleanup and mitigation of depleted uranium contamination at sites of depleted uranium munition use and production in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Armed Services,

for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN:

H.R. 2411. A bill to provide improved benefits and procedures for the transition of members of the Armed Forces from combat zones to noncombat zones and for the transition of veterans from service in the Armed Forces to civilian life; to the Committee on Armed Services, and in addition to the Committees on Veterans' Affairs, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN (for himself, Mr. EMANUEL, Mr. BAIRD, Ms. BALDWIN, Mr. BERRY, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BROWN of Ohio, Mr. BUTTERFIELD, Mrs. CAPPS, Mr. CASE, Mrs. CHRISTENSEN, Mr. CLEAVER, Mr. COOPER, Mr. COSTA, Mr. DAVIS of Illinois, Mr. DAVIS of Tennessee, Mr. DAVIS of Alabama, Mr. DEFAZIO, Ms. DELAURO, Mr. DOGGETT, Ms. ESHOO, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Ms. HARMAN, Mr. HOLT, Mr. KILDEE, Mr. KIND, Mr. KUCINICH, Mr. LANGEVIN, Mr. LANTOS, Mr. LEWIS of Georgia, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. MARKEY, Ms. MATSUI, Mrs. MCCARTHY, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. MOORE of Kansas, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Ms. PELOSI, Mr. PRICE of North Carolina, Mr. ROSS, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SHERMAN, Ms. SOLIS, Mr. STARK, Mrs. TAUSCHER, Mr. TAYLOR of Mississippi, Mr. THOMPSON of California, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Ms. WOOLSEY, and Mr. EVANS):

H.R. 2412. A bill to provide more rigorous requirements with respect to ethics and lobbying; to the Committee on the Judiciary, and in addition to the Committees on Standards of Official Conduct, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POE:

H.R. 2413. A bill to designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the ''Lillian McKay Post Office Building''; to the Committee on Government Reform.

By Mr. ROGERS of Michigan (for himself and Mr. MCCOTTER):

H.R. 2414. A bill to require the Secretary of the Treasury to analyze and report on the exchange rate policies of the People's Republic of China, and to require that measures consistent with the obligations of the United States under the World Trade Organization be taken to offset any disadvantage to United States producers resulting from China's exchange rate policies; to the Committee on Ways and Means.

By Mr. SNYDER (for himself and Mr. CHABOT):

H.R. 2415. A bill to amend title 18, United States Code, to increase the penalty provided for the sexual abuse of a minor or ward; to the Committee on the Judiciary.

By Mr. SNYDER (for himself and Mr. BOOZMAN):

H.R. 2416. A bill to amend title 38, United States Code, to eliminate reductions of basic pay for eligibility for basic educational assistance for veterans under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico (for herself and Mr. UDALL of New Mexico):

H.R. 2417. A bill to amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BURTON of Indiana:

H. Con. Res. 154. Concurrent resolution expressing the sense of Congress that Taiwan should be accorded full and equal membership in the World Health Organization (WHO) and other international organizations; to the Committee on International Relations.

By Mr. SMITH of New Jersey (for himself and Mr. ENGEL):

H. Con. Res. 155. Concurrent resolution urging the Government of the Republic of Albania to ensure that the parliamentary elections to be held on July 3, 2005, are conducted in accordance with international standards for free and fair elections; to the Committee on International Relations.

By Mr. TOM DAVIS of Virginia (for himself, Mr. DELAY, Mr. LEWIS of California, Ms. ROS-LEHTINEN, Mr. GARY G. MILLER of California, Mr. SHIMKUS, Mr. MARIO DIAZ-BALART of Florida, Mr. RANGEL, Mr. MORAN of Virginia, Mr. WILSON of South Carolina, Mr. MCDERMOTT, Mr. CROWLEY, Mr. ACKERMAN, Mr. ROHRABACHER, Mr. ROTHMAN, Mr. CASE, Mrs. MALONEY, Mr. VAN HOLLEN, Mr. PITTS, Mr. DUNCAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SCOTT of Virginia, Mr. LEACH, Mr. BISHOP of Georgia, Mr. LANTOS, and Mr. LINCOLN DIAZ-BALART of Florida):

H. Res. 280. A resolution celebrating Asian Pacific American Heritage Month; to the Committee on Government Reform.

By Mr. GUTKNECHT:

H. Res. 281. A resolution electing a certain Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Ms. ROS-LEHTINEN (for herself, Mr. LANTOS, Mr. CHABOT, Mr. PENCE, Mr. ACKERMAN, Mr. FALEOMAVAEGA, Mr. CROWLEY, Mr. SCHIFF, Mr. BOOZMAN, Mr. SHERMAN, Mr. WILSON of South Carolina, Mr. BURTON of Indiana, Mr. KING of Iowa, Mr. SOUDER, Mr. WALSH, Mr. FOLEY, Mr. MCCOTTER, Mr. MCHUGH, Mrs. JO ANN DAVIS of Virginia, Mr. ENGEL, Mr. BRADLEY of New Hampshire, Mr. WEXLER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. PALLONE, Mr. GARRETT of New Jersey, Mr. SHIMKUS, and Ms. BERKLEY):

H. Res. 282. A resolution expressing the sense of the House of Representatives regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes; to the Committee on International Relations.

By Mr. BAIRD:

H. Res. 284. A resolution amending the Rules of the House of Representatives to repeal the provisional quorum provision; to the Committee on Rules.

By Mr. DAVIS of Illinois:

H. Res. 285. A resolution expressing the sense of the House of Representatives regarding the ongoing need to provide every qualified American with equal access to opportunity in education, business, and employment and the indispensability of Affirmative action programs in securing such equal access; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

27. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to House Resolution No. 347 expressing the support of the House of Representatives of Puerto Rico to the nomination of John Bolton as Ambassador of the United States to the United Nations Organization; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Mr. DANIEL E. LUNGREN of California.

H.R. 22: Mr. SHUSTER, Mr. PETRI, Mr. RYAN of Ohio, Mr. BOUCHER, Mr. SANDERS, Mr. RAHALL, Mr. BOEHLERT, and Mr. KANJORSKI.

H.R. 36: Mr. BOSWELL.

H.R. 111: Mr. MARCHANT, Mr. PETRI, Mr. AL GREEN of Texas, and Mr. WU.

H.R. 130: Mr. GREEN of Wisconsin.

H.R. 136: Mr. TERRY, Mr. DUNCAN, Mr. JONES of North Carolina, and Mr. TAYLOR of Mississippi.

H.R. 147: Mr. MURPHY, Mr. HIGGINS, Mr. UDALL of Colorado, Mr. WALDEN of Oregon, Mr. MARSHALL, Mr. PETRI, and Ms. PELOSI.

H.R. 176: Mrs. CAPPS, Ms. SCHAKOWSKY, Mr. SHAYS, and Mr. SKELTON.

H.R. 181: Mr. BURTON of Indiana.

H.R. 216: Mr. WILSON of South Carolina.

H.R. 269: Mr. FILNER.

H.R. 282: Mr. YOUNG of Florida, Mr. CLEAVER, Ms. DEGETTE, Mr. CHOCOLA, Mr. SIMMONS, Mr. RANGEL, Mr. FEENEY, Mr. BARTLETT of Maryland, Mr. KELLER, Mr. WICKER, and Mr. CRAMER.

H.R. 302: Mr. DICKS, Mr. COSTELLO, and Mr. FALEOMAVAEGA.

H.R. 305: Mr. BRADLEY of New Hampshire and Mrs. NORTHUP.

H.R. 328: Mr. FRANKS of Arizona, and Ms. HOOLEY, Mr. SCHIFF, and Ms. PELOSI.

H.R. 339: Mr. PAUL.

H.R. 371: Ms. HOOLEY, Mr. CLEAVER, and Mr. SOUDER.

H.R. 378: Mr. THOMPSON of Mississippi.

H.R. 554: Mr. COBLE.

H.R. 558: Mr. MORAN of Virginia.

H.R. 615: Mr. MICHAUD.

H.R. 676: Mr. FATTAH.

H.R. 691: Mr. KILDEE and Mr. TERRY.

H.R. 737: Mr. STARK.

H.R. 747: Mr. HINCHEY, Mr. WEINER, Mr. OWENS, and Ms. HERSETH.

H.R. 759: Mr. MILLER of North Carolina.

H.R. 774: Mr. BEAUPREZ and Mr. TANCREDO.

H.R. 791: Mr. BISHOP of New York, Mr. LYNCH, Mr. SERRANO, and Mr. LANGEVIN.

H.R. 800: Mr. EHLERS, Mr. HOBSON, Mr. REGULA, Mr. UPTON, and Mr. THOMPSON of California.

H.R. 809: Mr. SHADEGG, Mr. WALSH, Mr. SHUSTER, Mr. MCHUGH, and Mr. BACHUS.
H.R. 810: Mr. CALVERT.
H.R. 819: Mr. DOOLITTLE.
H.R. 831: Mr. KILDEE.
H.R. 864: Mr. REICHERT and Mr. KENNEDY of Rhode Island.
H.R. 870: Mr. SANDERS.
H.R. 896: Mr. ANDREWS, Mr. REICHERT, Mrs. BONO, and Mrs. CAPPS.
H.R. 916: Ms. WASSERMAN SCHULTZ and Mr. CUNNINGHAM.
H.R. 921: Mr. FATTAH, Mr. KENNEDY of Rhode Island, and Mr. AL GREEN of Texas.
H.R. 923: Mr. BOOZMAN and Mr. UDALL of New Mexico.
H.R. 940: Mr. DAVIS of Florida.
H.R. 976: Mr. BEAUPREZ.
H.R. 1049: Mr. HERGER and Ms. HART.
H.R. 1058: Mr. OWENS.
H.R. 1059: Mr. DEFAZIO.
H.R. 1078: Mr. SKELTON.
H.R. 1080: Mr. BRADY of Pennsylvania.
H.R. 1108: Ms. BALDWIN.
H.R. 1124: Mr. KENNEDY of Rhode Island.
H.R. 1132: Mrs. NORTHUP and Mr. FERGUSON.
H.R. 1136: Mr. BRADY of Pennsylvania.
H.R. 1182: Mrs. CHRISTENSEN and Mr. FILNER.
H.R. 1184: Mr. AL GREEN of Texas.
H.R. 1186: Mr. GARY G. MILLER of California.
H.R. 1200: Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. PASTOR, and Mr. SERRANO.
H.R. 1201: Ms. ZOE LOFGREN of California.
H.R. 1218: Mr. FRANK of Massachusetts and Mr. OLVER.
H.R. 1245: Mr. TERRY.
H.R. 1246: Mr. OWENS, Mr. WELLER, Mr. DAVIS of Illinois, Mrs. KELLY.
H.R. 1252: Mr. MCNULTY and Ms. JACKSON-LEE of Texas.
H.R. 1264: Mr. FILNER.
H.R. 1282: Ms. JACKSON-LEE of Texas.
H.R. 1295: Mr. OWENS, Mr. GERLACH, and Mr. DOOLITTLE.
H.R. 1298: Mr. MCNULTY.
H.R. 1299: Mr. TERRY.
H.R. 1306: Mr. SCOTT of Georgia, Mr. MARIO DIAZ-BALART of Florida, and Mr. MACK.
H.R. 1315: Mr. KOLBE.
H.R. 1322: Mr. MCNULTY, Mr. MCGOVERN, Ms. KILPATRICK of Michigan, Mr. LYNCH, Mr. ACKERMAN, and Ms. ZOE LOFGREN of California.
H.R. 1329: Mr. MCNULTY, Mr. HONDA, and Mr. SERRANO.
H.R. 1335: Mr. BILIRAKIS, Mr. KLINE, and Mr. COSTELLO.
H.R. 1345: Mr. AKIN.
H.R. 1357: Mr. PUTNAM.
H.R. 1365: Mr. FILNER and Ms. MOORE of Wisconsin.
H.R. 1366: Mr. LARSEN of Washington.
H.R. 1377: Mrs. CHRISTENSEN and Ms. GINNY BROWN-WAITE of Florida.
H.R. 1380: Mr. KENNEDY of Minnesota and Mr. FITZPATRICK of Pennsylvania.
H.R. 1441: Mr. DAVIS of Illinois.
H.R. 1461: Mr. RYAN of Wisconsin.
H.R. 1469: Mrs. MUSGRAVE.
H.R. 1492: Mr. SPRATT, Mr. PASCRELL, Mr. BISHOP of Georgia, Mr. LARSON of Connecticut, Mr. SALAZAR, Mr. MORAN of Virginia, Ms. WOOLSEY, Mr. WU, Mr. SKELTON, Mr. MENENDEZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ISRAEL, Mr. ROSS, Mr. NADLER, Mr. SERRANO, Mr. BISHOP of Utah, Mr. CANNON, Ms. ZOE LOFGREN of California, Mr. BERMAN, Mr. LEWIS of Georgia, Ms. LINDA T. SÁNCHEZ of California, Mr. AL GREEN of Texas, Mr. PASTOR, and Mr. EVANS.
H.R. 1499: Mr. COBLE, Mr. FRANKS of Arizona, and Mr. SCHWARZ of Michigan.
H.R. 1545: Mr. PENCE.
H.R. 1578: Mr. WELLER, Mr. SHAW, Mr. MCCRERY, Mr. SIMMONS, Mr. LYNCH, Mr. RAMSTAD, Mr. CAMP, Mr. FOSSELLA, Mr. GILLMOR, and Mr. DENT.
H.R. 1580: Mr. MEEHAN and Mr. MCGOVERN.
H.R. 1591: Mr. ROTHMAN, Mr. SANDERS, Mr. STARK, and Mr. CUMMINGS.
H.R. 1597: Mr. ISRAEL and Mr. KENNEDY of Rhode Island.
H.R. 1600: Mr. BACHUS.
H.R. 1639: Mr. HONDA and Ms. BALDWIN.
H.R. 1652: Mr. ACKERMAN, Mr. FARR, Mr. ROTHMAN, Mr. FILNER, Mr. GENE GREEN of Texas, and Mr. BAIRD.
H.R. 1671: Miss MCMORRIS and Ms. BALDWIN.
H.R. 1707: Mr. WELLER, Mr. MCDERMOTT, Mr. CASE, and Ms. KILPATRICK of Michigan.
H.R. 1708: Mr. TERRY, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Mr. BOUCHER, Mr. DAVIS of Kentucky, and Ms. GINNY BROWN-WAITE of Florida.
H.R. 1736: Mr. COLE of Oklahoma and Mr. DOOLITTLE.
H.R. 1816: Mr. SOUDER, Mr. BARRETT of South Carolina, Mr. MCKEON, and Mr. MCCAUL of Texas.
H.R. 1850: Mr. MCGOVERN and Mrs. JO ANN DAVIS of Virginia.
H.R. 1851: Mr. HERGER and Mr. FILNER.
H.R. 1861: Mr. KENNEDY of Rhode Island and Mr. MICA.
H.R. 1872: Mr. CONAWAY, Mrs. CAPITO, Mr. TERRY, and Mr. MCCAUL of Texas.
H.R. 1879: Mr. HERGER.
H.R. 1973: Mr. SPRATT.
H.R. 1981: Mr. KILDEE, Mr. WU, and Mr. MENENDEZ.
H.R. 2046: Mr. TURNER, Mr. FILNER, Mr. HONDA, Mr. BURTON of Indiana, and Mr. BISHOP of New York.
H.R. 2072: Mr. ABERCROMBIE, Mr. CAPUANO, and Mr. CLAY.
H.R. 2074: Mr. HONDA.
H.R. 2076: Ms. GINNY BROWN-WAITE of Florida.
H.R. 2123: Mr. SOUDER and Mr. FORTUÑO.
H.R. 2133: Mr. MCGOVERN and Mr. NADLER.
H.R. 2177: Mr. DICKS, Mrs. JONES of Ohio, and Mr. HERGER.
H.R. 2178: Mr. TOWNS, Mr. FORD, Ms. MOORE of Wisconsin, Mr. SCOTT of Georgia, and Mr. CLEAVER.
H.R. 2217: Mrs. MALONEY and Mr. BLUMENAUER.
H.R. 2233: Mr. ACKERMAN, Mr. BERMAN, and Mr. COSTA.
H.R. 2238: Mr. FATTAH, Mr. RUSH, Mr. WYNN, Mr. BRADY of Pennsylvania, Ms. BORDALLO, Mr. SNYDER, Mr. COSTELLO, Mr. ROTHMAN, Mrs. MCCARTHY, Mr. RYAN of Ohio, and Mr. PLATTS.
H.R. 2259: Mr. CARDIN and Mr. SANDERS.
H.R. 2292: Ms. ESHOO and Mr. BRADY of Pennsylvania.
H.R. 2293: Ms. JACKSON-LEE of Texas.
H.R. 2306: Mrs. CAPPS.
H.R. 2317: Mrs. NORTHUP, Mr. UPTON, Mr. SCHIFF, and Ms. KAPTUR.
H.R. 2327: Mr. BROWN of Ohio, Ms. LEE, Mr. ISRAEL, Mr. SANDERS, Ms. WOOLSEY, Mr. KILDEE, Mr. ANDREWS, Mr. MENENDEZ, Mrs. MCCARTHY, Mr. ACKERMAN, Mr. DAVIS of Illinois, Mr. OWENS, Mr. DOGGETT, and Mr. LANTOS.
H.R. 2328: Mr. GINGREY and Mr. SULLIVAN.
H.R. 2346: Mr. ALEXANDER.
H.R. 2350: Mr. KILDEE and Mr. MARSHALL.
H.R. 2355: Mr. CHOCOLA.
H.J. Res. 10: Mr. TOM DAVIS of Virginia, Mr. NEUGEBAUER, Ms. GINNY BROWN-WAITE of Florida, Mr. MARSHALL, Mr. THORNBERRY, Mr. MCHENRY, Mr. KLINE, and Mr. COBLE.
H. Con. Res. 105: Mr. ISSA and Ms. SLAUGHTER.
H. Con. Res. 133: Mr. PAYNE, Mr. BERMAN, Mr. SMITH of Washington, Ms. WATSON, Mr. CROWLEY, Mr. BROWN of Ohio, Ms. BERKLEY, Mr. ENGEL, Mr. CHANDLER, Mr. DELAHUNT, Mr. LEVIN, and Ms. ZOE LOFGREN of California.
H. Con. Res. 141: Mrs. JO ANN DAVIS of Virginia.
H. Con. Res. 144: Mr. SHAW.
H. Con. Res. 145: Mr. UDALL of Colorado.
H. Con. Res. 149: Mr. BURTON of Indiana, Mr. WEINER, Mr. SAXTON, Mr. KING of Iowa, Mr. SOUDER, Mr. BARRETT of South Carolina, Mr. CANNON, Mr. TIAHRT, Mr. GARRETT of New Jersey, Mr. SESSIONS, Mr. AKIN, Mr. CROWLEY, Mr. ENGEL, Mr. SMITH of New Jersey, Mr. MCCOTTER, Mr. MARIO DIAZ-BALART of Florida, Ms. HARRIS, Mr. GINGREY, Mr. WELLER, Mr. FOSSELLA, Mr. SHIMKUS, Mr. KIRK, Mr. TOM DAVIS of Virginia, Mr. DOOLITTLE, Mr. PITTS, Mr. BROWN of South Carolina, Mr. SHAW, Mr. FLAKE, Mr. ISSA, Mrs. JO ANN DAVIS of Virginia, Mr. FOLEY, Mr. BERMAN, Mr. FERGUSON, Mr. MCCAUL of Texas, Mr. MCHENRY, Ms. GINNY BROWN-WAITE of Florida, Mr. POE, Mr. MILLER of Florida, Mr. SULLIVAN, Mr. TERRY, Mr. DENT, Mr. NEUGEBAUER, Mrs. NORTHUP, Mr. MACK, Mr. SCHIFF, Mr. CONAWAY, and Mr. WAXMAN.
H. Con. Res 153: Mr. BERMAN, Mr. ISSA, Mr. ENGEL, Mr. HYDE, Mr. MARCHANT, Mr. WEXLER, Mr. NEUGEBAUER, Mr. PALLONE, Mr. NEY, Mr. CARTER, Mr. LINCOLN DIAZ-BALART of Florida, Ms. HARRIS, Mr. CHABOT, Ms. JACKSON-LEE of Texas, Mr. FRANK of Massachusetts, and Mr. HEFLEY.
H. Res. 84: Mr. WHITFIELD.
H. Res. 121: Mr. DEFAZIO.
H. Res. 220: Mr. PETRI, Mr. GARRETT of New Jersey, Mr. ABERCROMBIE, Mr. SMITH of New Jersey, Mr. DAVIS of Florida, Mr. THOMPSON of California, Ms. GINNY BROWN-WAITE of Florida, and Mr. WELLER.
H. Res. 245: Mr. FOSSELLA.
H. Res. 273: Mrs. JOHNSON of Connecticut, Mr. BLUNT, Mr. DREIER, Mr. TOWNS, Ms. HARRIS, Mr. CROWLEY, Mr. LANTOS, Mr. ACKERMAN, Mr. SMITH of New Jersey, Mr. WILSON of South Carolina, Mr. PENCE, Mr. MCGOVERN, Mr. FEENEY, Mr. BERMAN, Mr. MARIO DIAZ-BALART of Florida, Mr. POE, Mr. CARNAHAN, Mrs. JO ANN DAVIS of Virginia, Mr. CAMP, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MACK, Mr. CHABOT, Mr. TANCREDO, and Mr. MENENDEZ.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

20. The SPEAKER presented a petition of the City Council of Seattle, Washington, relative to Resolution No. 30752, opposing the federal government's proposal to charge market rates for electricity sold by the Bonneville Power Administration to its preference customers; to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1817

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 1: Page 79, after line 6, insert the following new section:

SEC. 509. REQUIREMENT THAT DEPARTMENT OF HOMELAND SECURITY BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et. seq) is amended by adding at the end the following new section:

"SEC. 836. REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES; EXCEPTIONS.

''(a) REQUIREMENT.—Except as provided in subsections (c) through (h), funds appropriated or otherwise available to the Department may not be used for the procurement of

an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

''(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

''(1) An article or item of—

''(A) food;

''(B) clothing;

''(C) tents, tarpaulins, or covers;

''(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

''(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

''(2) Specialty metals, including stainless steel flatware.

''(3) Hand or measuring tools.

''(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

''(d) EXCEPTION FOR CERTAIN PROCUREMENTS.—Subsection (a) does not apply to the following:

''(1) Procurements by vessels in foreign waters.

''(2) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

''(3) Procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) for which the use of procedures other than competitive procedures has been approved on the basis of section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)), relating to unusual and compelling urgency of need.

''(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

''(1) such procurement is necessary—

''(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

''(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

''(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

''(f) EXCEPTIONS FOR CERTAIN OTHER COMMODITIES AND ITEMS.—Subsection (a) does not preclude the procurement of the following:

''(1) Foods manufactured or processed in the United States.

''(2) Waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.

''(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of title 10, United States Code.

''(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).''.

H.R. 1817

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 2: At the end of title V, add the following new section:

SEC. 509. BUY AMERICAN REQUIREMENT FOR PROCUREMENTS OF GOODS CONTAINING COMPONENTS.

(a) REQUIREMENT.—Notwithstanding any agreement described in subsection (b), more than 50 percent of the components in any end product procured by the Department of Homeland Security that contains components shall be mined, produced, or manufactured inside the United States.

(b) AGREEMENTS DESCRIBED.—An agreement referred to in subsection (a) is any of the following:

(1) Any reciprocal procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Homeland Security has prospectively waived the Buy American Act (41 U.S.C. 10a et seq.) for certain products in that country.

(2) Any international agreement to which the United States is a party.

H.R. 2361

OFFERED BY: MR. FLAKE

AMENDMENT NO. 2: Page 6, line 13, after the dollar amount, insert the following: ''(decreased by $3,817,000)''.

Page 12, line 17, after the dollar amount, insert the following: ''(decreased by $14,937,000)''.

Page 24, line 1, after the dollar amount, insert the following: ''(decreased by $9,421,000)''.

Page 80, line 3, after the dollar amount, insert the following: ''(decreased by $15,000,000)''.

Page 45, line 16, after the dollar amount, insert the following: ''(increased by $15,000,000)''.

H.R. 2361

OFFERED BY: MR. GARRETT OF NEW JERSEY

AMENDMENT NO. 3: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 Federal employees at any single conference occurring outside the United States.

H.R. 2361

OFFERED BY: MR. TERRY

AMENDMENT NO. 4: In the item relating to ''ENVIRONMENTAL PROTECTION AGENCY—SCIENCE AND TECHNOLOGY'', after the second dollar amount, insert the following: ''(reduced by $130,000,000)''.

In the item relating to ''ENVIRONMENTAL PROTECTION AGENCY—HAZARDOUS SUBSTANCE SUPERFUND'', after the second dollar amount, insert the following: ''(increased by $130,000,000)''.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, TUESDAY, MAY 17, 2005 No. 65

Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, who makes us one, Your word informs us that a house divided against itself cannot stand. As the Members of this body face divisive issues, give them the wisdom to find creative ways of maintaining unity. In these uncertain times, help them to avoid the slippery slope of disunity. Remind them that pride comes before destruction and a haughty spirit before a fall. Teach each of us that before honor is humility and that losing one's life for a just cause is the best way to find it.

Lord, permit the powerful forces that unite us to overcome the feeble winds that divide. Transform cacophony into harmony. We pray in the Name of the Prince of Peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 17, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Senator from the State of Louisiana, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. VITTER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, we will start the session with a 1-hour period of morning business. Following that period, we will resume the highway bill for the final 30 minutes of debate. At the conclusion of those remarks, we will begin a series of debates on any of the remaining pending amendments. It is my understanding that several of the amendments will not require rollcalls; therefore, we expect three or four votes, including final passage.

We will be recessing today from 12:30 to 2:15 for the weekly policy luncheons. We will be talking to the managers shortly, but I would expect we would be able to, starting at around 11:30 or noon today, do at least a couple of those votes, and then, following the luncheons, complete the bill.

Mr. President, tomorrow I expect the Senate will begin consideration of some of the judicial nominations that have been available on the Executive Calendar, as we determine specifically the plans for tomorrow. But we will be going by regular order tomorrow, taking one of the nominees from the Executive Calendar. But over the course of the day, we will come back and be more specific with those announcements, after discussion with the Democratic leader.

JORDAN

Mr. FRIST. Mr. President, for the past week, I have come to the Senate floor to briefly discuss my recent fact-finding mission to the Middle East, having had the opportunity to travel to Israel, the West Bank, Egypt, Lebanon, and Jordan 2 weeks ago.

I will conclude these Mideast reports with a very brief discussion of my time in Jordan.

We began the Jordan leg of our trip with a visit to King Abdullah. Son of the much admired King Hussein, King Abdullah has been a trusted and valuable friend to the United States and a steadfast partner in the war on terrorism.

We discussed Jordan's progress toward economic reform. Jordan is embarking upon free market reforms and encouraging the growth of small business and entrepreneurs. We know in the American experience that entrepreneurship is that engine of economic and job growth. I am encouraged by the progress that King Abdullah is making, and I am hopeful the Jordanian economy flourishes. As it does so, it will become a model of reform throughout the Middle East.

We also talked about the importance of the U.S.-Jordanian partnership in the peace process. King Abdullah's father exhibited great courage and foresight as he led his nation to peace with Israel in the 1990s.

Because of Jordan's relations with Israel and its special ties to the Palestinians, Jordan can be a substantial contributor to the peace process. By coordinating our efforts, I believe Jordan and the United States can help the parties build momentum toward a peaceful resolution.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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During a dinner meeting with King Abdullah, we were joined by Jim Wolfenson, the former head of the World Bank. Dr. Wolfenson was recently selected, as my colleagues know, by President Bush to handle the upcoming Israeli withdrawal from the Gaza Strip, focusing on the quartet of partners and building the appropriate support. I applaud the President for his choice in this emissary. Not only is Dr. Wolfenson eminently capable, but he knows many of the important players directly, professionally, and personally, and he appreciates the stakes and I am confident he can get the job done.

Dr. Wolfenson understands the transition must go well. If it does not, violent unrest and instability could destroy this, what I believe is a historic chance for peace. The Jordanians have been an invaluable partner in Operation Enduring Freedom. They have made tremendous contributions to the Iraqi people's efforts to secure a free and prosperous Iraq.

We have witnessed the extraordinary bravery of the Iraqis at the polling booths and at the police recruitment centers. They have been willing to defy the terrorists and assume an active role in securing democracy.

Many of those courageous Iraqis are acquiring the training and skills needed to defend their country by completing a security course and police training regimen in Jordan.

We had the opportunity, while in Jordan, to visit the Jordan-Iraq Police Training Center, a truly unique effort where 16 countries have come together, including the United States, Jordan, Britain, Canada, Finland, and others, to train the Iraqi security force—to train the Iraqi police. The director of the facility is John Moseby, a highly qualified veteran of the U.S. Air Force.

The center's goal in Jordan is to train 32,000 Iraqi police by December 2005. Already, the center has graduated over 15,000 recruits, who have gone back to Iraq to serve in security positions. There are currently 40 Iraqi trainers at the site in Jordan, and the center hopes to add another 60. It sits on about 450 acres and can train about 3,500 cadets per session.

I wanted to go to the Jordan-Iraq Police Training Center to see firsthand how those exercises are conducted because there has been some question in the past as to the adequacy and the quality of that training. Having had the opportunity to meet the cadets, both an incoming class and classes that were leaving, viewing many of the exercises, viewing, with the leaders there, the commitment to a quality curriculum, I am very reassured they are doing an outstanding job in training those Iraqi recruits to go back and keep their communities and their streets safe.

The Iraqi cadets told us of their hope and appreciation for America's help in building a new Iraq. I am confident that by their courage and their commitment, freedom will prevail in Iraq and the dark forces that now threaten their country will be defeated.

The trip throughout the Middle East was fascinating and informative. We met many vibrant and thoughtful people. Again and again, you hear, throughout all the countries, this expressed hope, the universal dream of hope that the people of the Middle East will one day be truly free—free from violence and oppression, free to express their will through democratically elected leaders, free to express themselves in the town square without fear of violence or terrorism.

I do applaud President Bush for his vision and for his unwavering belief in the dignity and rights of all people. From Darfur to Damascus, from Baghdad to Beirut, liberty is the hope of mankind.

Here in the Senate, I encourage and urge my colleagues to continue to do our part to ensure that these principles help shape the future of the Middle East. I believe together, with our partners around the globe, we can spread prosperity and peace. I believe it is the only way.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

ISRAEL

Mr. REID. Mr. President, I have listened to the leader's statements these past days on his trip to the Middle East. It is a fascinating place. I returned about a month ago myself. But the one thing that I always see in the Middle East is this tiny, little State of Israel, surrounded by these other countries that are about as undemocratic as a country could be.

Israel is a democracy. Every day we hear about what is going on in the Middle East, we should realize that. Israel has risen above this. They maintain their democratic principles in spite of the violence that is going on, on a daily basis, in that part of the world.

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, yesterday afternoon the majority leader and I met one last time trying to reach a compromise that would avert the so-called nuclear option. The so-called nuclear option is nothing that we named. I know for cosmetic purposes those in the majority now have tried to call it a ''constitutional option,'' which must be directly out of Orwell's book ''1984'' because it means everything but a constitutional option. The name came from the Republican leadership last year. So the ''nuclear option'' is a name from the majority, not us.

I do not know if they met with my friend, Frank Luntz, or with whom they met to change the name from ''nuclear option'' to a softer sounding proposal, ''constitutional option.'' As I said, violating 217 years of standard procedure in the Senate, changing the rules by breaking the rules, is about as far as you could get from a constitutional option.

But it appears that my distinguished friend, the majority leader, cannot accept any solution which does not guarantee all current and future judicial nominees an up-or-down vote. That result is unacceptable to me because it is inconsistent with constitutional checks and balances. It would essentially eliminate the role of the Senate minority in confirming judicial nominations and turn the Senate into a rubber stamp for the President's choices. In fact, the majority should look carefully at what they are getting because not only would this eliminate the role of the Senate's minority but also the majority in judicial confirmations. The majority would be eliminated, too. The Senate would no longer have a role.

I can only conclude that the true purpose of the nuclear option is not to win confirmation of some or all of the small handful of nominees Democrats filibustered last year. Remember, today it stands at 208 to 10. And focusing on the number 10 is somewhat misleading because of the 10, 3 have either withdrawn or retired. And we have said, time and time again, that 2 of the remaining 7 we would agree to 10 minutes from now—2 Michigan judges. So it is really 208 to 5—208 to 5.

So the goal, it appears to me, of the Republican leadership—and note I do not say of the mainstream Republicans in this country, I do not say of the Republicans in the Senate—but, rather, the goal of the Republican leadership in this body and their allies in the White House is to pave the way for the future, so that the Senate would basically be eliminated from the confirmation process. They don't want consensus, they want confrontation.

Yesterday, after rejecting our last attempt at a compromise, the majority leader issued a statement. In this statement, the majority leader said there is going to be an upcoming debate over judicial nominations, and he said he hoped the upcoming debate is free from ''procedural gimmicks like the filibuster.'' That is a quote: ''procedural gimmicks like the filibuster,'' ''procedural gimmicks like the filibuster.''

We had a freshman Senator go to the Middle East and tell the leader of Iraq that the United States was different than any other country in the world because of the filibuster—a Republican Senator. A gimmick?

The filibuster is not a procedural gimmick. The filibuster is an important check on executive power and part of every Senator's right to free speech in the Senate. ROBERT BYRD, on Thursday, from this desk right behind mine, talked about free speech.

Senator ROBERT BYRD has been in the Senate for approximately 25 percent of

the time this country has existed. I should say in the Congress—47 years in the Senate, 6 years in the House of Representatives—more than 50 years, approximately 25 percent of the time that we have been a country. He should know something about free speech. He was here on the Senate floor when the great Margaret Chase Smith, a Republican Senator from Maine, talked about the value of free speech in the Senate. He was in the Senate when the Republican Howard Baker talked about the importance of the filibuster in protecting our democracy. A gimmick? I think not.

Senator BYRD was in the Senate when the debate over civil rights took place. I heard BARACK OBAMA upstairs with the press corps say: Isn't it interesting, the filibuster was used against African Americans but they worked around it and prevailed in spite of it. They didn't move to change the rules in the middle of the game.

Senator ROBERT BYRD was here when DAN INOUYE, the Medal of Honor winner from Hawaii, a new Senator, came to the floor, and as an Asian American whose friends and family were put in internment camps during the Second World War, spoke on the Senate floor about what it means to be a minority and how the filibuster should be available to protect the minority. A gimmick? I think not.

Over the years, the filibuster has proven to be an important tool of moderation and consensus, which partly explains why the Republican leadership is opposed to it. They aren't interested in moderation. They are only interested in advancing their right-wing, radical political agenda, an agenda being driven by the people who are saying we are filibustering against people of faith.

Mr. President, every day—for 23 years—with rare exception, I go to the House gym and work out. There I met Congressman RUSH HOLT. He is a nuclear scientist, a Congressman from New Jersey. RUSH's father, also named Rush Holt, served in this Chamber in the late 1930s. As a freshman United States Senator, he led a filibuster to preserve wage and hour protections for American workers. RUSH HOLT, Jr., is so proud of his father. He talked to me about the pride he had in his father being a United States Senator, and he told me this story about the filibuster his father conducted alone to preserve wage and hour protections that had come about as part of the New Deal. He wasn't using a political gimmick. He was using something that was part of the vision of our Founding Fathers, something they wanted in this body to make it unique and different—free speech. An important tool to stand up for working men and women in this country, that is what Senator Rush Holt, Sr., was using.

Of course, the filibuster has not always been used for good. I acknowledge that. Just as it has been used to bring about social change, it was also used to stall progress—I have talked about that—things this country needed to change, such as civil rights legislation.

But Senator BARACK OBAMA speaks in favor of the filibuster. He understands, as an African American, why it is important. But at these times people have spoken and public opinion has spurred this Chamber into action, as indicated, it brings about compromise. So you see the filibuster is not a political gimmick. It is part of the fabric of this institution we call the Senate, the greatest debating society in the world—or at least it has been so far. Is that going to be taken away from us?

While I was in the gym this morning, Mr. President, I was stopped by a Republican House Member. I will not name him for fear the Republican leadership in the House will remove him from a subcommittee or whatever they do to punish people over there, and we know that happens. But everyone within the sound of my voice should know that I am telling the truth. A Republican House Member came to me this morning and said: I never thought I would say this to the Democratic leader of the Senate, but I am praying for you, that you prevail in this battle going on in the Senate. A Republican House Member is praying for me and this institution to maintain the institution as it is.

So as the moment of truth draws near, I, too, am praying, Mr. President. I do not say that lightly. I pray that cooler heads will prevail and the responsible Republicans—and they are there, I know they are there—such as this Congressman who spoke to me this morning, will join Democrats in standing up against this abuse of power, to maintain our checks and balances, to maintain the separation of powers that has made this country the power that it is, one that the world looks upon with awe, inspiration and admiration.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business of up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

JUDICIAL NOMINATIONS

Mrs. MURRAY. Mr. President, we awoke today to see news of a breakdown in negotiations to end the so-called nuclear confrontation that some Republicans are driving this body toward.

I want to take a minute to thank our leader, Senator REID, who I believe is really doing his best to preserve the tradition and the precedent of the Senate through good-faith negotiations. He put forth a good-faith compromise proposal only to see it rejected out of hand. This breakdown really marks a sad day for this body.

More than 200 years ago, the Senate was created as part of the Great Compromise, and for the balance of those 200 years, compromise has been central to any and all of the great work that has been completed by the Senate. The rules are set up here to assure that the Senate serves as a center for Government compromise. We have a system of checks and balances, with the Senate checking the President through advice and consent and the President checking the Congress with the use of the veto. And all the while we have an independent judiciary that is empowered to balance out the system. Those checks and balances were put in place for a reason. They promote compromise, they promote preservation of minority rights, and they ensure that our system of government works for all of the people. Unfortunately, the goal of some becomes clearer each passing day in this body that they are not interested in compromise on the so-called nuclear option. If this Senate does remove the last check in Washington against an abuse of power, the majority will be able to appoint to lifetime seats on the Supreme Court and the Federal bench anyone they want.

The American people have rejected court packing before and I believe they will again. We are united against the abuse of power known as this nuclear option. We believe that Senators were sent here to serve all Americans, not to promote political agendas of one faction. Mr. President, Democrats will join responsible Republicans to fight this abuse of power and get back to the real work of the American people.

25TH ANNIVERSARY OF THE MOUNT ST. HELENS ERUPTION

Mrs. MURRAY. Mr. President, I rise today with my colleague from Washington State to very proudly mark the 25th anniversary of the day that Mount St. Helens erupted in my home State of Washington and will be joining with her later to offer a resolution to commemorate this anniversary.

For anyone who lived in the Pacific Northwest at the time, May 18, 1980, is a day we will never forget. It was a day that changed lives and it changed the landscape of Washington State forever. It was also a day that imposed a heavy toll in lost lives and lost habitat. Fifty-seven people were killed that day. More than 230 acres of forest were leveled in an instant.

Mr. President, the story of Mount St. Helens is a story of destruction, but it is also a story of renewal, a story of science, and a story of the importance of preparation. Today I rise to share that story and the lessons that it holds for us now 25 years later.

Perhaps the best place to start really is the day before the eruption, when Mount St. Helens was really a beautiful and striking feature of landscape

in the State that I was born and raised in.

This photo behind me shows what the mountain looked like before the eruption. As you can see, it had a nearly perfect dome, and it was recognized as one of the most symmetrical mountains in the world. It was surrounded by lush forests and beautiful streams and rivers and lakes and the area was filled with wildlife of all kinds. But danger lurked right beneath that tranquil landscape.

May 8, 1980, began as a beautiful, sunny morning in the Northwest. I remember it well, sitting at home with my two young children at the time. Meanwhile, below the surface, Mount St. Helens was anything but calm. At 8:32 a.m, a 5.1-magnitude earthquake occurred, and that sparked massive eruptions which would last for 9 hours. This photo shows some of what followed. Within minutes, this massive cloud of ash and toxic gas spouted 15 miles into the air. You could see it from many places in my State. A 300-mile-per-hour blast shot from the mountain, knocking down all of the evergreen stands as if they were matchsticks. The entire north face of the mountain gave way to this massive mud slide, and that mud slide carried hot water and debris that it picked up over the surrounding landscape.

The eruption itself released 24 megatons of energy. It destroyed all forms of life within the 18-mile blast zone, including roughly 7,000 bear, elk, and deer. The scope of this devastation on that day was enormous. The hot ash from this eruption, combined with the melting snow at the mountain top, created massive mud flows. This was not just a local event. More than 500 million tons of that ash was blown eastward across the United States 250 miles away in Spokane, WA. That traveling ash turned day into night for everyone who was there, and by June, a few months later, ash could be found from Mount St. Helens on the other side of the world.

As we now mark the 25th anniversary, I wanted to come here to the floor today with my colleague from Washington State, Senator CANTWELL, to pay tribute to the 57 men and women who died on that day. Some of them were there enjoying the area's beautiful scenery, some were drawn to the mountain for scientific study, and others were long-time residents who lived there who refused to give up the only homes they had ever known.

When that dust settled and the mountain quieted, nearly 150,000 acres of public and private land had been destroyed.

This photo behind me shows some of that destruction. That stand of trees was blown down in an instant. The mountain's nearly perfect dome was turned into a crater. The Toutle River, which had been vibrant and green before, a great place in my State, was now a dark, gray expanse.

Then President Jimmy Carter toured the site and later remarked:

Someone said this area looked like a moonscape. But the Moon looks more like a golf course compared to what's up there.

Everyone knew that wildlife restoration would be a major challenge. Within weeks of the eruption, however, many dedicated foresters and biologists returned to the area to assess the damages and help with the recovery. One of the strongest leaders in this revitalization has been the Weyerhaeuser Company. It lost nearly 68,000 acres of forest that day, making the company the largest private landowner impacted by this eruption. The company was able to replant over 45,000 acres with over 18 million seedlings. Weyerhaeuser has been committed to restoring the area through sustainable forestry. Now, 25 years later, many of those trees they planted in the wake of the eruption are now amazingly ready for thinning, and final harvesting will begin in another 20 years which will pave the way for the forest cycle to recommence. The U.S. Forest Service made similar efforts. On 14,000 acres of National Forest land, the Forest Service has planted nearly 10 million trees since 1980. In August of 1982, Congress established the 110,000-acre Mount St. Helens National Volcanic Monument.

The monument allows unhindered natural growth and serves as a resource for visitors and academics.

Within weeks of the eruption, signs of life literally sprouted through the layers of destruction.

As forests were replanted and vegetation again took root, the wildlife also began to return.

Roosevelt elk and Columbia blacktailed deer, for example, along with small birds and mammals, reestablished their habitats.

Today the area is a testament to the enduring circle of life, as green hills surround the crater, and blue waters flow through the valley once again.

As the ecosystem rebuilds, we are constantly reminded of the wealth of knowledge available from the monument itself.

Thousands of people have been drawn to the mountain to see the evidence of this power and to learn from its effects.

For many, the eruption sparked a new interest in the earth sciences.

It has provided new insight on seismology and volcanology, helping students and scientists to better understand the earth's natural movement.

Representatives of the U.S. Geological Survey have teamed with researchers at local and national universities to process the data and to continue monitoring movement beneath the ground.

Teachers from across the country have brought hundreds of student groups to the Forest Service's three visitor centers. There, students study the eruption and the reemerging wildlife.

Now what was once a bleak scene of destruction is now a living monument and an educational resource.

Although 25 years have passed, there is still much we can learn from the eruption of Mount St. Helens.

Just last fall, we were reminded that we haven't heard the last from this mountain.

After 18 years of relative quiet, a series of small quakes have occurred in October.

And in March, just 2 months ago—the mountain released a 36,000 foot plume of steam.

Today, inside the crater, the lava dome continues to grow. That is a sure sign that there is far more activity to come.

The most important lesson we can learn from the eruption is the need to improve our warning and response systems.

While we may never be able to fully protect surrounding communities, we can help reduce the risk.

For months before the 1980 blast, scientists from the USGS had monitored Mount St. Helens and were able to predict that an eruption was likely in the near future.

As a result, most people stayed away from the mountain. We must continue to support the efforts of the scientists and local officials who keep us all safe.

Unfortunately, according to a recent USGS report, monitoring of high-risk volcanoes in the U.S. leaves a lot to be desired. Of the 169 volcanoes, 55 qualify as being a ''high risk'' for eruption.

After Kilauea in Hawaii, Mount St. Helens ranks second on the list of high-risk peaks.

Mount Rainier, also in Washington State, is ranked third, followed by Mount Hood in Oregon and Mount Shasta in California.

Millions of people live near these mountains, making their monitoring and study a critical undertaking.

I want to personally commend the hundreds of dedicated scientists and local, state and federal officials who are keeping a close eye on these mountains in Washington State.

Their work is helping to ensure that the public is better prepared for any future disaster.

We can honor those who died 25 years ago by learning from the eruption and improving our ability to predict and respond to natural disasters.

While we have been fortunate not to have a major eruption in the U.S. since Mount St. Helens, the tsunami tragedy in Asia once again reminded us of the power of events beyond our control.

We know there is more to come, so together, I hope we make sure we are well-prepared, and our communities are well-protected.

My colleague from Washington State, Senator CANTWELL, is on the floor. I welcome her.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise to join my colleague in the resolution commemorating the 25th anniversary of the eruption of Mount St. Helens. I thank my colleague for working on the resolution to commemorate this historic event. Not only for Washington State and the Northwest, but

for our country, May 18 marks an incredible landmark in time for people in the Northwest and certainly marks a critical response by our Federal Government. It also allows us to reflect on the progress we have made as a nation to develop a greater understanding about the more than 160 active volcanoes in the United States.

For over 100 years, Mount St. Helens stood in silence, a relatively dormant peak and serene part of the Pacific Northwest. But on the morning of May 18, 1980, Mount St. Helens erupted releasing a plume of ash that filled the sky, circling the Earth in just 15 days. The destructive eruption eviscerated everything in its path and tore through miles of trees.

Today, 25 years later, the effect of the 1980 eruption remains evident, and the rumbling of Mount St. Helens over the past several months reminds many of us, particularly in Washington State, of those events on May 18, 1980. The level of activity of Mount St. Helens, combined with the unpredictability of it, makes it very special for Washingtonians. We embrace the mountain's beauty but remain in profound respect of its power and weary of a repeat eruption similar to 1980.

What is important to understand is that Mount St. Helens, located 90 miles south of Seattle and 65 miles north of Portland, OR, when it exploded, released such hot steam that it actually melted 70 percent of the snow and ice on top of the mountain. To give you a sense of that enormity, Mount St. Helens was, prior to this, the ninth highest peak in the State of Washington. It has now been reduced about 1,300 feet. The avalanche that was created by that explosion was close to two-thirds of a cubic mile of debris. The Geological Survey estimates that would be enough to cover Washington, DC, in more than 14 feet of ash and mud. That is basically what the Northwest dealt with when this explosion happened in 1980. We saw flows of rock and ice covering various parts of the north fork of the Toutle River, debris running down those pathways wherever it could go. The eruption destroyed 27 bridges that were part of our highway structure, 200 hundred homes, 185 miles of roadway, and 15 miles of railway.

What is unique about this is that Congress responded. We responded because of the devastation to the physical and environmental infrastructure but also because of the loss of life. My colleague and I are here to commemorate those 57 Washingtonians who died in the incident, and one particular individual, David Johnston, who was with the U.S. Geological Survey. What this anniversary marks is the great strides we've made as a Nation to response to science in this area.

David Johnston, by comparison, in 1980 had been studying Mount St. Helens for many months. In fact, on the morning of the explosion, he was 6 miles away on what is now called Johnston Ridge. Many of my colleagues may, if they turned on the TV in the last several months to see rumblings of Mount St. Helens, seen many observers, and many members of the media stationed on Johnston Ridge. When Mount St. Helens erupted on that day, David Johnston, who was our monitoring system at Mount St. Helens only had an opportunity to say: Vancouver, this is it. And the eruption took his life.

Where we are today is that we have volcanologists, geologists, seismologists in what is a robust system of emergency response. The U.S. Geological Survey, the U.S. Forest Service, the Department of Interior, the National Guard and Federal Emergency Management Agency under the Department of Homeland Security, and the Cascade Volcanic Observatory in Vancouver, WA, all provide us with a much greater sense of what is going on with Mount St. Helens and what the emergency response should be in the event of a similar explosion.

My colleague mentioned that we have seen a lot of rumblings lately on Mount St. Helens, and certainly those eruptions have caused concern. But I think today's anniversary reminds us that as a nation we responded to this activity with a better warning system, and with a much better understanding of volcanic activity in the United States. With the 162 active volcanoes in the United States, we in the Northwest want to see good research on this. The fact that Mt. Rainier and other mountains are much closer to great population centers of Washington State is something for which we want to continue to have an investment in good science.

I join my colleague Senator MURRAY and thank her for commemorating the events of May 18, 1980, as a particular point in time for Washingtonians and for our country. But as I stated this commemoration is also significant because it speaks to the advancements in science that our country has achieved in better preparing to respond to this type of emergency. When I think about the science we have applied as it relates to volcano monitoring, I am confident that with similar activity and research as it relates to tsunami activity—something that also could greatly impact the Northwest—we can better prepare for an event of that nature as well. It gives me a great deal of hope that we will, through better mapping, through better geological information, better seismic information, provide Washingtonians with greater security and safety.

As most of my State will be seeing many pictures of the eruption in 1980, I thank my colleagues from past Congresses for their support in giving us a Cascade Volcanic Observatory in the State of Washington and for the work the men and women do in various Federal agencies that provide us better scientific information and a better warning systems for our country.

SURFACE TRANSPORTATION

Ms. CANTWELL. Mr. President, I would like to take a moment to comment on the surface transportation act we are going to hopefully pass today and a particular provision that I was happy to work on with my colleagues Senators INOUYE, STEVENS, AND LOTT, regarding giving consumers better protection and accurate information about gasoline consumption. Americans today are facing a painful reality at the gas pump, so the least we can do is to make sure the mileage stickers on their cars match up with the reality of the road. That will help them and their families make better budget plans and make better choices when buying automobiles.

It is simply that we need to have truth in labeling for stickers on automobiles. But today gas mileage stickers that appear on cars basically inflate the true vehicle fuel economy performance by anywhere from 10 to 30 percent.

That is because the Federal Government laboratory tests, on which this outdated procedures rely, are false assumptions. For example, they assume people drive 48 miles per hour on the freeway, and they never use air conditioning. Obviously, a variety of other things that represent technology improvements have not been considered in this test. When a family is on a tight budget—and right now there are many Americans on a tight budget—getting accurate information about vehicle fuel efficiency is important.

The provisions of this bill that are included in the surface transportation act would direct EPA to issue a proposed rulemaking no later than the end of this year and complete the process within 18 months. What it would do is encourage the Government to take into account real-life conditions such as speed limits, acceleration rates, braking, variations of weather and temperature, vehicle load, and a variety of other fuel-consuming features.

It is important that we pass this kind of legislation. I know the American Automobile Association supports this legislation, as do many other residents throughout the country who are consumers making gas-conscious choices when they buy automobiles. We need to give them accurate information.

I am glad the truth in labeling amendment we offered will be included as part of the package of the surface transportation act and hopefully pass today.

I yield the floor.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise today in support of the Senate SAFETEA bill that is before us, the Transportation bill. I first want to thank my colleague from Washington State for her leadership on so many different issues, including provisions in the Transportation bill. I thank Senators INHOFE and JEFFORDS for drafting

a good bill for the country and a good bill for Michigan.

I am pleased the Senate is passing this critical bill today. Unfortunately, this has been delayed for over 20 months and Congress has passed six TEA–21 extensions. It is my hope that we will not have to pass a seventh and this bill will be completed before the end of the month. We have already lost one spring construction season in Michigan, and we certainly don't want to lose another.

During the budget debate, I worked with Senator TALENT on a successful amendment to help the Senate produce a well-funded highway bill and keep all the funding options on the table. This amendment was included in the final budget resolution, and I am pleased to say it helped pave the way for the additional $11 billion that was added to the Senate bill.

As my colleagues know, this bill isn't just about improving our roads, transit systems, and buses, but it is also about creating jobs. The Department of Transportation estimates that for every $1 billion of highway spending, we are creating 47,500 new jobs, and this generates more than $2 billion in economic activity.

Mr. President, we need this bill. Michigan needs this bill. Over the last 4 years, Michigan has lost jobs. The SAFETEA bill will create good-paying jobs and help thousands of Michigan families make ends meet. So it is absolutely critical we pass this bill today.

We are not talking about minimum-wage jobs, we are talking about well-paying jobs that help Michigan families pay their mortgages, save for retirement, and pay for their children's education. The SAFETEA bill will create over 59,000 jobs in Michigan alone.

Mr. President, this delay has also cost Michigan additional highway funding that we desperately need. Our communities are growing, congestion is getting worse, and our roads are worn down through increased wear and tear, but we are still working under funding formulas that are over 7 years old.

In fact, Detroit ranks ninth nationally for having the worst traffic congestion. That is even worse than the delays in Boston and Philadelphia.

The Senate bill would provide Michigan with over $6.65 billion in highway funding and $600 million in transit investment to help address our congested roads and increase bus service throughout our State. This also is desperately needed.

We cannot fix these problems without a well-funded highway bill. Unfortunately, the House TEA–LU doesn't provide the resources we need to address our aging roads and transit systems. This also would mean fewer jobs for Michigan and the country.

I also add that the Senate bill continues to move us forward for Michigan to get its fair share. We are not there in terms of dollar for dollar, and I will continue to fight in every Transportation bill until we get there. But we need to move forward so Michigan gets a better share in this bill and a better opportunity to have the resources and jobs we need.

As this bill goes to conference with the House, I urge my colleagues to stand behind the Senate bill. Once again, this Senate will be passing a bill that is better than what has been passed in the House. It is more fair. I am very hopeful we will stand together on a bipartisan basis and insist that the Senate version ultimately be the version that is passed.

We also need for the bill to be fair and for it to meet the needs of our communities, and we need to make sure we are creating as many jobs as possible. It is time to invest in the best possible resources for our Nation's transportation needs. I am pleased that because of the bipartisan effort in the Senate we will be having a vote today on final passage of this desperately needed bill. Hopefully, we will see it going to the President in a form that is fair for Michigan, for all of our States, and that it is something that will address the future needs of our country.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 3

Mr. INHOFE. Mr. President, I ask unanimous consent that the consecutive votes in relation to the pending amendments on the highway bill begin at noon today, with the additional time equally divided as before, and that no second-degree amendments be in order prior to the votes in relation to the pending amendments; provided, that following the first vote, the Senate then stand in recess as under the previous order, with the remaining votes occurring after the recess. I also ask unanimous consent that there be 2 minutes of debate equally divided before each of the votes in the stacked series.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 706 WITHDRAWN

Mr. INHOFE. Mr. President, I ask unanimous consent that amendment No. 706 be withdrawn.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I further ask unanimous consent that following the first vote, Senator LANDRIEU be recognized for 5 minutes as in morning business prior to the recess.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA

Mr. MARTINEZ. Mr. President, I rise today to discuss a very important sense-of-the-Senate resolution pending before the Senate. This resolution expresses support for a historic meeting taking place in Havana, Cuba, this Friday, May 20. It is called the Assembly to Promote the Civil Society in Cuba. This resolution expresses support for the courageous individuals who continue to fight for and advance liberty and democracy for the Cuban people.

I thank my colleague from Florida, Senator BILL NELSON, for partnering with me on this important effort. I also thank and commend the 23 other colleagues who have signed on to this bipartisan effort in cosponsoring this resolution.

For too long, the Cuban people have been starved of the precious freedoms so dearly cherished in the United States and in democracies around the world. This year, May 20 provides us with a unique opportunity to highlight and support efforts to advance liberty and democracy in Cuba.

I stress to my colleagues the tremendous valor and bravery of these pro-democracy advocates who are risking their lives pursuing their natural God-given freedoms that they continue to be denied.

Already there have been reports of disappearances, state security intimidation, and of infrastructure interruptions by the regime in order to stop this gathering. For someone to travel from one part of Cuba to another, within their country, citizens must seek the government's permission before doing so. Transportation is made more difficult and the ever-present Committees for the Defense of Revolution, which stand as government watchdogs in every neighborhood and on every street corner, provide even more intimidation and fear to those who seek to attend this gathering.

May 20 has long marked an important day for the Cuban people. It was on this day in 1902 that the island first gained its independence. This is a particularly poignant moment in history, when the United States fought side by side with the Cuban people as they sought to throw off the yoke of colonialism. After 4 years of building a governmental structure and helping the Cuban people to gain its governance, in 1902 the United States ceded independence to the people of Cuba. It was on May 20, 1902, that took place. This is what we currently are looking for, for the Cuban people to be allowed to celebrate. The current Cuban Government prefers to celebrate other dates more in

keeping with the beginnings of the dictatorship. But this day ought to be remembered because of the importance it carries.

This year's Cuban Independence Day is historic. The people of Cuba are on the road to transition. The historic gathering this week of prodemocracy advocates demonstrates that Cubans are increasingly losing their fear and vocalizing their desire to be architects of their own destinies and of their own future. This peaceful demonstration, a simple display of freedom of assembly and speech, represents an unprecedented partnership for over 360 prodemocracy and civil society organizations from all walks of life. Their focus will be on bringing democracy, liberty, and a respect for basic human rights to this island nation.

The fact is, the Cuban Government has one of the worst human rights records in the world. There is a complete lack of human rights available to the Cuban people under the tyranny of this repressive regime. They continue to deny universally recognized civil liberties, including freedom of speech, association, movement, and of the press. Freedom of religion is also denied.

As the recently released State Department report, ''Supporting Human Rights and Democracy, The U.S. Record 2004–2005,'' relates:

> [T]he Cuban Government ignored or violated virtually all of its citizens' rights, including the fundamental right to change their government. Indeed, the Government has quashed all efforts to initiate a public debate on how Cuba can prepare for a peaceful transition.

Just last month the United Nations Human Rights Commission once again condemned Cuba for its human rights record.

Let's begin with labor rights. The Cuban Government has been cited by the International Labor Organization and scores of governmental and nongovernmental organizations worldwide for its gross violations of human rights. With a state-controlled economy, the Government is the only source of jobs, and it exercises very strict control over labor policies. Specifically, as the 2004 human rights report relates:

> The foreign investment law denies all workers except those with special government permission the right to contract with foreign companies investing in the country.

Further:

> [The] government required foreign investors and diplomatic missions to contract workers through state employment agencies, which were paid in foreign currency, but which in turn pay workers very low wages—

In the local currency. Typically, these workers receive 5 percent of the salary paid by the companies to the State, and the workers receive worthless pesos while the company pays the governor in dollars. In 2003, average salaries, for those lucky enough to be employed, equal about $10 a month. Yet within the last year these salaries have fallen even further. In an attempt to reassert stricter control, the Castro regime has outlawed use of the U.S. dollar, thereby diminishing the value of Cuban wages even further. New directives have also been issued regarding the tourism industry, so as to impose additional control over the actions of tourism workers.

At the same time, the Cuban Government has steadfastly rejected international human rights monitoring. As the 2004 State Department human rights report says:

> The Government steadfastly rejected the human rights monitoring. Since 1992, the Government has refused to recognize the mandated UNCHR on Cuba, and despite being a UNCHR member, refused to acknowledge requests by Christine Chanet, the Personal Representative of the Commissioner on Human Rights to visit the country.

It is critical we offer our bipartisan support to the patriotic participants of the May 20 gathering on the island, as well as to the many brave men, women, and children who continue to challenge tyranny and oppression.

They need and deserve our support. These past few weeks alone, the news is reporting that the regime has begun rounding up young people for preventive security measures. The median age is 18, and 95 percent are Afro-Cuban. Specifically, our resolution includes four principal messages: First, that the Senate extend its support in solidarity to the participants of this historic meeting in Havana; second, that the Senate urges the international community to support the assembly and its mission to bring democracy and human rights to Cuba; third, that the Senate encourages the international community to oppose any attempts by the Cuban Government to repress, punish, or intimidate the organizers or participants of the assembly; and fourth, that the Senate shares the prodemocracy ideals of the assembly to promote civil society in Cuba and believes that the assembly and its mission will advance freedom and democracy for the people of Cuba.

The international community plays a very large role in helping prodemocracy movements, much as it did in Eastern Europe.

As President Bush recently remarked in his Second Inaugural Address:

> All who live in tyranny and hopelessness can know the United States will not ignore your oppression or excuse your oppressors. When you stand for liberty, we will stand with you.

That is what this resolution is all about—standing with the participants of the May 20 assembly and standing with the brave men and women who continue to live in tyranny and hopelessness. When you stand for your liberty, we will stand with you. Our country's history has allowed us to observe the struggle of impatient patriots such as Frederick Douglass, Abraham Lincoln, and Martin Luther King and the mission they undertook to bring us closer to our democratic ideals.

These prodemocracy advocates today, these Cuban heroes, are today's patriots, and I have faith in them and the important mission they have undertaken. I stress to my colleagues the tremendous valor of those folks who are today struggling for the God-given freedoms they continue to be denied.

The new democracies around the world are standing for freedom and are eager to be a voice in the struggle for transition in Cuba. Our eyes should all be on Havana this Friday to witness this historic event. It is a hopeful time for the Cuban people. I am inspired by their efforts and their bravery. We applaud their strength and their unity as they gather to fight for freedom and basic human rights.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent I be allowed to speak for 5 minutes on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I join my colleague from Florida and a number of other colleagues who have sponsored this resolution. This is a historic time for Cuba. The U.S. Government is redoubling its commitment to freedom and democracy around the world. We are watching as people around the globe demand accountability from their leaders, and the ability to participate in free, fair, and open elections. The winds of freedom are not only blowing in the Middle East but also closer to home, near to our blessed shores of Florida—in fact, only 90 miles away from Key West.

Despite the horrific crackdown in 2003, Cuban civil society and political dissidents continue to meet and to carry out small actions to express their views on a daily basis. This takes courage. The wives of imprisoned dissidents march silently every Sunday following church services. They are known as the Ladies In White. They march largely unopposed, despite attempts to intimidate and to pressure them.

A counterprotest was organized. It was organized once, but that counterprotest has not been repeated.

This is just one of many examples of the Cuban people organizing in small groups, showing that Fidel Castro does not have the full support of his people and that all people of the world, including Cubans, desire to be free.

A few of the dissidents rounded up in that 2003 crackdown have since been released because of the severity of their medical condition. Their time served in Cuban jails has not curtailed their desire to bring freedom to the people of Cuba. One of those individuals, Martha Beatriz Roque, continues her struggles unfazed by the experiences of a summary trial and then imprisonment. And despite the fact that she runs the risk every day of being returned to jail, she continues to fight for basic rights and she continues to organize dissidents working towards the ultimate goal of freedom.

In an effort to heighten the level of international attention—attention to those brave souls' efforts—and in an effort to continue to create greater common cause among the groups of people on the island, the Cuban dissidents are organizing this assembly to promote civil society in Cuba. Over 300 civil society groups are expected to be represented at the meeting. The goal of the assembly is to discuss how they will play a role in the transition after the end of the Castro regime. This end is approaching. The clock is ticking. We must be ready, both on the island and around the world, to ensure that Cubans have the opportunity to freely and fairly choose their successor government.

Senator MARTINEZ, my colleague from Florida, and I, along with 20 colleagues, are encouraging the Senate to support this resolution, and in supporting this resolution, therefore, to support this assembly, its participants, and all civil society on the island, and to do it in a bipartisan fashion.

This resolution is an effort to bring international attention to the assembly and to all members of civil society on the island of Cuba. These are brave individuals who deserve our support every day, not only on these memorable and momentous occasions but every day in respect for what they have endured as their liberty has been taken away from them.

We want that liberty to return. Our thoughts and prayers will be with all these individuals.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Allen/Ensign amendment No. 611 (to amendment No. 605), to modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code.

Sessions Modified amendment No. 646 (to amendment No. 605), to reduce funding for certain programs.

Reid (for Lautenberg) amendment No. 619 (to amendment No. 605), to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol under aggravated circumstances.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I am very happy we finally got to this point. We are operating under unanimous consent at this time.

We will have for the next 45 minutes a discussion and then a vote on the Allen amendment at 12 o'clock. We will have this 45-minute period of time to talk about the highway bill, and hopefully we can confine arguments to that, with the exception of 5 minutes for Senator LANDRIEU right before the vote takes place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 611

Mr. ALLEN. Mr. President, I thank my colleague from Oklahoma. I am glad we are going to be voting on my amendment around noon. I had thought it was going to be 11:30, but it is now noon.

Let me share with my colleagues the rationale behind amendment No. 611 to the underlying bill.

I first thank my colleague, Senator ENSIGN of Nevada, for cosponsoring this amendment. The purpose of my amendment is to make sure that safety belt incentive grants are awarded based on a State's seatbelt use rate, not based upon a prescriptive mandate from the Federal Government that would make the States enact a primary seatbelt law to receive their Federal funds.

The way this bill came out of committee, in effect, for the States to get their money, they have to enact a primary enforcement seatbelt law. Seatbelt laws generally, whether you have a law such as 29 States do, which is secondary enforcement, or in some cases not even secondary enforcement laws, or some States have primary enforcement laws, this is an issue under the purview of the people in the States.

This is not an issue for the Federal Government to get involved. This is not an issue of civil rights. It is not an issue of interstate commerce. It is not in the Constitution. There is no way Thomas Jefferson and James Madison would ever envision the Federal Government worrying about such matters. I know they did not have automobiles in those days, but they were not coming up with worries about what kind of saddles they had or making sure folks on horseback laced up their saddles correctly with a buck and strap or whether there were seatbelts on buggies.

The underlying bill clearly tramples on the jurisdiction that has long been held by the people in the States. I don't believe ''nanny'' mandates such as this initiative should come from Government. But if they must, the government should be that of the State legislature and not the Congress. State legislators provide a much closer representation of the views and beliefs of their respective constituencies in our country.

I am a firm believer that the laws of a particular State reflect the philosophy and principles under which the citizens of that State should be governed. The people in the States do not need fancy Federales telling them what to do. Moreover, I doubt a single Senator ran for this office of Senator promising to enact primary seatbelt laws, trampling on the laws of their States.

This chart shows a minority of States, 21 States, the States in red, have primary safety belt laws; 29 States do not, the States in white on the chart, and New Hampshire. I surmise this issue has been considered by every one of the State legislatures in all our 50 States. In 29 of those States, primary enforcement of seatbelt laws was rejected.

Why were they rejected? Each State may have their own reasons. Some may believe it is more important for law enforcement to worry about drunk drivers or impaired drivers rather than craning their necks trying to figure out what is in someone's lap as they are driving otherwise safely down the road. There are others that may have concerns about driving while black, a concern of racial profiling. Regardless of the reasons, 29 States have rejected primary seatbelt laws.

Given that a majority of the States has declined such laws, it seems inappropriate for the Federal Government to devise a grant program that essentially compels the States to enact primary enforcement laws, and if they do not, they lose Federal gas tax dollars the people in these States paid into the Federal highway trust fund.

My amendment revises the Occupant Protection Incentive Grant Program to grant awards on 85-percent belt use rate—the national average is about 80 percent. Eighty-five percent would, of course, be a significant increase. People are safer wearing seatbelts. It is a good idea to wear seatbelts, but instead of compelling States to enact primary seatbelt laws, the grants should be awarded solely on seatbelt use attainment. The point is to get people to wear seatbelts, not to have prescriptive micromanagement from the Federal Government.

For me, it is difficult to understand the logic of an incentive program that provides Virginia, with its high safety belt use, far less funding than a State with far lower seatbelt use rate but with a primary seatbelt law. Yet that is entirely possible under this bill if the State with a lower seatbelt use rate has enacted a primary seatbelt law.

For example, a State could have 70-percent seatbelt usage and receive Federal funds under this grant program only because it has enacted a primary seatbelt law. However, another State could have 89-percent seatbelt usage rate but not qualify for this grant funding because it does not have a primary seatbelt law. That makes absolutely no sense unless one is an officious meddler who wants to dictate and meddle in the prerogatives of the people in the States.

If the goal is to attain higher safety belt usage rates, incentive grants

should be awarded based on a specific goal. In our amendment, it is 85 percent. This amendment is similar to one already included in the House version of this highway bill legislation. My proposal is a much more equitable way to provide incentives and reward States for increasing seatbelt use rates. It makes the proposed program fair by making requirements the same for all States, but does not compel States to enact primary seatbelt laws.

How do you get people to wear seatbelts if you do not have a law? As if everyone carries the code of their State around in the glove box or, for that matter, carries around the United States Code. There are a variety of ways. In some States with secondary enforcement, with higher usage rates than those with primary enforcement laws, there can be advertising, there can be incentives. There are a variety of programs creative people can devise as well as just common sense.

I wear a seatbelt. My kids wear seatbelts. Everyone ought to. But the point is, Should this Senate be telling the States to pass primary enforcement laws?

I urge all my colleagues to consider the laws of your State. If you are in one of the 29 States that does not have a primary seatbelt law, what in effect Senators are saying is, we do not trust you in South Carolina, Florida, Arkansas, Missouri, Arizona, or Montana to make these laws. I don't agree with this. Moreover, you are telling people from Alaska to Arizona to Florida and South Carolina, Virginia, and on up to New Hampshire and Maine, sure, you all are paying Federal gas tax revenues into the Federal Government highway trust fund from your gasoline purchases, but you are not going to be able to get this approximately $500 million portion back unless you pass a primary enforcement seatbelt law.

The people in the States should determine whether this Federal Government incentive plan should reward States that have high usage rates or whether it should be used to promote a certain meddling nanny philosophy.

I respectfully ask my colleagues to stand up for common sense, principled respect for the will of the people in the States. Stand up for the principle that the law ought to be fair to those across the country. If any of those States can reach 85-percent attainment rate, depending on how it gets calculated in the States, let them have access to these funds and grant them the broad authority, also, to use those funds for roads and adding on to roads, as well. Finally, rather than official Federal nannyism, stand up for trusting free people. They can make these decisions perfectly well, and have heated and vigorous debate in their State legislatures if necessary. We should not trespass on the will, desires, and views of the people of 29 States with this officious nannyism and the federales planting their finite wisdom over the will of the people in the States.

I ask my colleagues to vote in favor of the Allen amendment.

AMENDMENT NO. 761, AS MODIFIED

Mr. INHOFE. Mr. President, yesterday when we passed our substitute amendment, which was No. 761, there were some technical inaccuracies in obligations and limitations for the 5 fiscal years. I ask unanimous consent to make those technical corrections to the amendment 761. This has been agreed to by both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 761) was agreed to, as follows:

Strike section 3103(b) and insert the following:

(b) MASS TRANSIT CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2005, $7,646,336,000;
(2) for fiscal year 2006, $8,900,000,000;
(3) for fiscal year 2007, $9,267,464,000;
(4) for fiscal year 2008, $10,050,700,000; and
(5) for fiscal year 2009, $10,685,500,000.

Mr. INHOFE. Mr. President, I know there are a lot of Members interested in the Allen amendment. We are close to final passage. We may have a couple of amendments after we return at 2 o'clock, at which time we will want to debate those. We will be limited to 2 minutes on each side for those amendments. I encourage Members who want to be heard on those amendments that we will be considering after 2 o'clock, this is the time to do it. This is the only time Members will have.

Mr. JEFFORDS. Mr. President, as we stand on the verge of passing the highway bill, I once again praise Chairman INHOFE for his leadership. We would not be at this point without the chairman's persistence and hard work. And I personally thank you and Senators BAUCUS and BOND for their excellent efforts.

Mr. INHOFE. Will the Senator yield?

Mr. JEFFORDS. I yield.

Mr. INHOFE. Mr. President, this has been an effort that has been bipartisan all the way around. It has been 3 years in the making. For all of us to get along this well for 3 years—I hope it does not end after this is over.

I compliment you and Senator BAUCUS, along with Senator BOND, and the Democrats and Republicans on the Environment and Public Works Committee who are so cooperative.

Mr. JEFFORDS. We have proved it can be done.

The highway bill before the Senate is important for the Nation.

It will authorize funds for Federal-aid highways, highway safety programs, and transit programs through fiscal year 2009.

This bill will make our roads safer. This bill will reduce traffic congestion. This bill supports mass transit.

This bill will create jobs. This bill will have an impact on every town, every city, and every State.

The legislation includes a provision by Senators GRASSLEY and BAUCUS that boosts funding in this bill by $11.2 billion or about 4 percent over what the White House has requested.

That funding makes all the difference in allowing us to draft a funding formula that ensures that all States benefit in this legislation.

That funding helps level the playing field for many States that feel they are being treated unfairly at the White House prescribed funding level of $284 billion.

I urge President Bush to reconsider his veto threat against this legislation.

It is a good bill that helps every Sate and will impact every American.

There are no differences between the House and Senate versions of this bill that cannot be overcome with good, honest negotiation, and compromise.

But we should not enter those negotiations with a proverbial ''gun at our head'' with the threat of a veto.

The White House should not enter the negotiations with a ''my way or the highway'' approach.

There is a storm brewing in the Senate of mammoth proportions.

It is a storm I hope we can avoid for the sake of this great institution.

I urge the President and the Republican leadership in the Senate to change the course of this storm.

This bill, and others like it, are too important to get caught in the political hurricane on the horizon.

Despite the gloomy forecast, I remain hopeful we can maintain the momentum we have made on the highway bill and reach a final agreement quickly and fairly.

SMART GROWTH

This highway bill, although not a perfect bill, is a step forward in the smart growth arena.

We have included some modest provisions in this bill to encourage smart growth, like safer routes for our children to get to school, encouraging more physical activity through walking and biking for all Americans, measures to improve traffic congestion, funding for stormwater, and just plain smart planning.

The Safe Routes to Schools Program helps ensure our children are safer as they walk to and from school.

By improving sidewalks and crosswalks for both pedestrians and bicyclists, we are providing a healthier alternative to riding the bus or using a car. We are encouraging students to get out there and walk or ride their bike to school.

In the 1960s, over 60 percent of our children walked or rode their bikes to school. Today, it is less than 10 percent.

According to the National Institutes of Health, the number of children who are overweight has doubled in the last two to three decades; currently one child in five is overweight. Increasing the opportunities for children to walk or ride their bikes to school can help combat the obesity problem.

I would Iike to see more funding for this important program.

Even we, as adults, need to increase our physical activity. The provision for bicycle and pedestrian safety grants will promote the benefits of walking and bicycling, and how to stay safe while doing so.

According to the National Highway Traffic Safety Administration, bicycling and walking currently account for nearly 13 percent of traffic fatalities, that is over 5,000 a year. Yet States are spending less than 2 percent of their Federal safety funds on bicycle or pedestrian projects.

The biking and walking programs also help minimize traffic congestion, a common problem of urban sprawl.

The increasing amount of time that Americans spend in their cars in traffic has encouraged manufacturers to supply larger, more comfortable trucks and cars. These huge, gas-guzzling cars and trucks are a symptom of a failure to make our homes and workplaces more accessible to other forms of transportation.

Other provisions that incorporate smart planning, multi-agency coordination, and encourage public input early in the planning process, help ensure that the improvements meet the specific needs of the area. Improved planning also addresses local concerns and makes for more efficient enhancements to the community, without costly mistakes.

Even the Highway Stormwater Discharge Mitigation Program provides much needed assistance to our States and local communities by helping them deal with the impacts of highway stormwater discharges.

This important legislation increases our investment in our regional transportation agencies so they can consider the choices that will build stronger and more sustainable regions and local communities.

And, that is what smart growth is all about. Making smart, educated decisions on how to handle the growth of our communities.

Such planning promotes growth that improves the economy, revitalizes neighborhoods, protects farmland and environmentally sensitive areas, and improves public health.

Smart growth offers a range of transportation options, provides parks and play areas for our children, and provides accessible options for those with disabilities. All of these use energy more efficiently and are good for the environment.

Many of the provisions in this bill help ensure that we develop transportation projects in smarter ways.

I hope the conference committee produces an agreement that respects these important resources, be it our historic and cultural assets and parks and protected open spaces.

Since the 1960s, I have been involved in the smart growth debate. As Vermont's attorney general, I drafted what became the first, and is still today, the most comprehensive, State level environmental review regulation in the United States, known in Vermont as Act 250. In 1999, I established the Senate smart growth task force. Today, I serve as cochair, along with my colleague, Senator LEVIN, on the Senate's bipartisan, multiregional task force for smart growth.

A number of you also serve with us to ensure that we assist those at the State and local levels with the growth of their communities. If you are not already a member, I encourage you to join our task force today to broaden the efforts in the Senate.

Land use and development affects each and every one us, regardless of party affiliation. And with energy prices on the rise, transportation and land use planning are critical tools for conserving energy and promoting more fiscally sound development practices.

The task force needs your help to incorporate smart growth principles into the budget and appropriation processes, to build better relationships with our State and local partners, and work with the administration to support State and local efforts to plan for growth.

Our Nation has only recently begun to recognize that sprawl is unhealthy—whether it is contributing to obesity in America or multiplying the number of roads that are dangerous and unfriendly to pedestrians or harming the habitat of endangered species.

Smart growth is about providing transportation choices, including transit, pedestrian walkways, bicycle lanes and paths, and of course, highways and roadways.

This highway bill is a move in the right direction. While funding is limited for these programs, I am encouraged to see provisions like these are moving forward.

In these times of high gasoline prices, Vermonters and all Americans want to know what Congress is doing to reduce our dependence upon foreign oil.

Constituents who are paying steep prices at the pump want to know that we are working to promote technologies that use gasoline more efficiently.

I would like to talk about some of the provisions of the highway bill and the managers' amendment that have the potential to do just that.

The bill provides additional incentives to use hybrid vehicles on our Nation's highways and the managers' amendment builds on those provisions.

While I think these provisions represent a good initial starting point for important discussions to come in the conference on this bill, I think more can and should be done through this legislation to encourage hybrid use, and to expand their benefits for consumers and the environment.

Some argue that we do not need to do any more to promote hybrid purchasing and use by consumers.

They suggest that the price of gasoline itself has been a strong driver of hybrid purchases. Certainly, in part, that is the case.

At the end of April, the Associated Press reported that the hybrid market has grown by 960 percent since 2000.

New hybrid vehicle registrations totaled more than 8,300 in 2004, an 81 percent increase over the year before.

Even though hybrids still represent less than 1 percent of the 17 million new vehicles sold in 2004, major automakers are planning to introduce about a dozen new hybrids during the next 3 years.

I have personally joined the thousands of Americans, and several other members of this body, in becoming a hybrid owner.

I purchased a Ford Escape hybrid last year.

Simply allowing gas prices to increase is not the best way to promote hybrid use. That is a poor policy solution.

We should also provide significant non-financial incentives to stimulate demand for these vehicles.

One important incentive in the bill before us is to allow these vehicles access to the high occupancy vehicle lanes, or HOV lanes, on our highways.

We will be saving our commuters time, in addition to reducing gasoline use.

In doing so, we need to carefully consider and maintain the other societal benefits of HOV lanes.

Those benefits include: encouraging transit and shared car use, and promoting dedicated alternative fuel vehicles.

Mr. President, our last highway law, TEA–21, gave States the authority to allow what is called a high occupancy vehicle lane, or HOV lane.

Many commuting Americans are familiar with these lanes, and thousands commute into the District of Columbia every day using them.

I want to give my colleagues some of the history behind allowing less polluting vehicles in HOV lanes.

Under TEA–21, if a vehicle was certified under Federal regulations as an ''inherently low-emission vehicle'' it could be used in the HOV lane with only one occupant.

The law authorized States to implement this policy through September 30, 2003, and granted each State the right to revoke this policy if it increased HOV lane congestion.

EPA established the low-emission vehicle standards.

They did so in order to recognize that certain types of fuel and vehicle technologies have low emissions and to encourage their use.

Only vehicles without evaporative fuel emissions meet EPA standards.

Consequently, a vehicle that bums any quantity of gasoline or diesel cannot meet the standards.

That includes hybrid vehicles that operate on a combination of gasoline or diesel and electric batteries.

Vehicles that operate entirely on alternative fuels with no evaporative emissions, such as compressed natural gas, liquified natural gas, or purely

electric vehicles, are the only ones that are able to meet the standards.

We should promote the use of those vehicles.

However, such vehicles are a very small percentage of the on-road fleet, and, as a consequence, few motorists have been able to take advantage of the HOV lane benefit provided in TEA–21.

Since the passage of TEA–21, there has been growing interest among motorists, the vehicle industry, and some States in renewing the HOV lane benefit and expanding it to hybrid vehicles, which are more widely available.

The bill before us includes provisions that would renew and expand the HOV lane exemption for low-emission vehicles.

Specifically, the managers' amendment would allow ''low emission and energy-efficient vehicles'' access to HOV lanes.

The bill would make that access permanent.

A vehicle would qualify as a ''low emission and energy-efficient vehicle'' if it meets EPA's ''Tier II'' emission standards that were phased in beginning in model year 2004.

In addition, EPA would have to certify that the vehicle gets at least 50 percent better fuel economy than a gasoline vehicle in the city or that it is a ''dedicated alternative-fueled vehicle'' as defined in the Energy Policy Act of 1992.

Current hybrid vehicles are clean enough to comply with the new tier II standards. Some hybrids also meet the threshold for fuel economy ratings in the bill.

This change would result in expanding access to HOV lanes to include hybrid vehicles.

I reassure my colleagues who may be concerned that congestion in HOV lanes might arise as a result of the policy change contained in this bill.

The bill before the Senate requires States that allow hybrids on HOV lanes to establish a program for qualifying and labeling such vehicles, and monitoring and evaluating their use in HOV lanes.

States also would be required to develop policies and procedures for limiting the single-occupancy operation of hybrids if their use led to increased traffic congestion.

While there are benefits to this language, I hope that my colleagues consider strengthening the language.

We should be mindful when we allow single occupant vehicles in the HOV lanes, even if they are hybrids.

The managers' amendment simply implements the tier II emissions standards that were effective last year.

Hybrids easily meet these standards today, so this language has no practical impact.

If it is the determination of Congress to allow hybrids to use the HOV lanes, we should be promoting the most fuel-efficient and cleanest hybrid vehicles on the road. I would like to go further.

This bill takes a good step toward promoting single occupant HOV access for hybrid vehicles.

We make sure that there are only dedicated alternative fuel vehicles in HOV lanes, those that run on 100 percent alternative fuels.

But we need to make sure that we don't overburden our HOV lanes. And we need to make sure that our goals of lowering pollution that we set in our last highway law are maintained.

It is my hope that we do so in the conference on this bill.

Mr. INHOFE. Mr. President, shortly we will be voting on final passage of H.R. 3, the highway bill. Of course, we have talked about how long this has been in the making. We are finally to that point. The product is a good product. There are some who still today are not happy with the way the formula has treated their States.

There is nothing more difficult than dealing with a formula. This is a formula that deals with so many different factors. We have donor States, donee States, large States, small States, passthrough States, we have States with unusually high delegate rates. All these things are a consideration. During this debate we have discussed these at length the last 3 years.

A lot of people think we are spending too much. I put my conservative credentials up against any one of the 100 Members. I have been rated No. 1 as most conservative Member in this Senate. Yet there are two areas where we need to spend money: One is the national defense and infrastructure is the other one.

This is a life-and-death bill. We have to do something to save some lives. People who are saying we are spending too much on this, I think they forget that we have had two very great Senators in the Finance Committee, Senator GRASSLEY and Senator BAUCUS, who we went to and said: This is what we really need to have for America. Can you make sure it is paid for and make sure we can do it without a deficit? They assured us that we can.

I see Senator BAUCUS is here to speak. Of course, I repeat one more time how much I appreciate him and Senator GRASSLEY for the work they have done so that this is a bill that is paid for, this is a bill that is not going to add to the deficit, and I want to make sure that people understand that.

By the way, the work they did has been ratified by the Joint Tax Committee. That is the proper body. They have said yes, they can come up with—actually, the amendment is $11.2 billion more in contract authority—they said they can do it and it is not going to add to the deficit; it is not going to be deficit spending.

Before we run out of time, I do wish to thank some other people. I will let Senator JEFFORDS and Senator BAUCUS thank their staff, but I just want to say I wish the American people really knew the hours that are put in on something like this. I am talking about all night long and many hours. I start with Ruth Van Mark, who has been with me for 17 years now. I know there have been many sleepless nights working on this bill; Andrew Wheeler, James O'Keefe, Nathan Richmond, Greg Murrill, Marty Hall, Angie Giancarlo, John Shanahan, Rudy Kapichak, James Gentry, Alex Herrgott, Dave Lungren, Alex Marx, and many more who put in countless hours.

But also on Senator FRIST's staff, if you look back all during the consideration of this bill, we have had the help of Libby Jarvis, who is always there; Dave Schiappa has been there on a daily basis, Eric Ueland, Dan Dukes, Laura Dove; and the people from the Department of Transportation, who have been over here spending their hours on the Senate floor with us: Susan Binder, Edward Ross Crichton, who has done over 1,000 formula runs for us over the last 3 years. He will be glad when this thing is finally passed, I think; Dedra Goodman, Carolyn Edwards, Thomas Holian, Sue Anna Celini, and, of course, I thank the hard-working people of the legislative counsel because they have actually drafted this 1300-page bill and the hundreds of amendments. They include Carcie Chan, Heather Arpin, Michelle Johnson-Weider, Heather Burnham, and Gary Endicott.

Anyway, this has taken a lot of hours, a lot of years working on this. It is going to finally be a reality. I will just say we are going to have an amendment that will come up this afternoon, the Sessions amendment. I would suggest it is very important for people to understand that it would only cut contract authority, it has nothing do with spending more or less money. It is not going to have any effect on the deficit, and it is very important people understand that.

So it is a good bill, and I appreciate working with so many people on this so closely to make this come to the point where we are today.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I also join in thanking a lot of people who have worked very hard on this bill. Certainly the chairman of the committee, Senator INHOFE, deserves primary credit. It has been a long road, no fun. He has done a great job, and I commend him as well as the ranking Democrat of the committee, Senator JEFFORDS from Vermont. They worked very closely together. And that is what makes good legislation. This is not a partisan bill. This is a transportation bill. Of course, Senator BOND from Missouri has done yeoman's work, and I thank Senator GRASSLEY, chairman of the Finance Committee.

I wish to make a few comments as we prepare to vote on final passage. I think that vote will occur in several hours. I start by congratulating all those who have worked so hard on this

issue, and I thank some people back in my home State of Montana.

Jim Lynch is director of the Montana Department of Transportation. He is a terrific director, a very good man. I have known him for many years. He has his heart and soul in this work. I also thank members of his team: Sandy Straehl, Jim Currie, Jim Skinner, Dick Turner, and Mike Tierney, just to name a few. They are terrific people, and many of them were also helpful in TEA–21. They know highways. They know this bill. They know the program. Believe me, they do a good job in helping us.

The bill we will vote on in a few hours is a good bill It is a solid bill. It is one that will move the country forward over the next 5 years. Every State will benefit from this legislation, the so-called donor States, donee States, urban, rural, large and small, every State.

In my state of Montana, this bill will provide $2.1 billion over the next 5 years. This is an increase in highway funding over $500 million of historic levels of TEA–21. This means that more than 16,500 good-paying jobs will be sustained in Montana each and every year of this bill. In many respects, this is our economic development program, the highway program. It provides so many good-paying jobs as well as excellent transportation.

I am very proud of the funding levels we have achieved working alongside my good friend from Iowa, Senator GRASSLEY. I believe we developed a reasonable and fiscally responsible funding package. I am pleased that the Senate voted strongly to approve our efforts to increase the funding by $11 billion. The vote last week was 76 to 22 to waive the budget point of order, that is, in favor of that $11 billion. I hope the administration will take a long serious look at this. I hope they will reexamine their earlier opposition to increasing transportation investments. It is a good solid effort. The Senate has again publicly made its desires known with regard to funding levels. We did not go over the top. We could have gone with more, to 318, but we did not. We stayed under $300 billion—very responsible, very reasonable—and I hope the President will understand this is good legislation for the country, it helps our infrastructure, it is all paid for, and it is necessary to help America be competitive.

In a moment, we will vote on an amendment to reduce the funding in this bill by almost $11 billion. That is stripping away the funding that we worked so hard to identify and that the Senate voted to support.

I have here with me a stack of letters from a diverse group of organizations that strongly oppose the amendment being offered by the Senator from Alabama. I will not go through all of them, but it is really stunning, the number of organizations that have written us in opposition to the Sessions amendment. Every organization you can think of from the ACT—that is, the Association for Commuter Transportation—the Transportation Construction Coalition, the Surface Transportation Policy Project, signed by Anne Canby, who is the President; AASHTO, signed by John Horsley, executive director, and many environmental organizations as well have written in opposing the Sessions amendment: National Association of Counties, National League of Cities, United States Conference of Mayors. It is just a representative sample of the large number of letters that have been written.

Mr. President, I ask unanimous consent to have some of them printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 16, 2005.

DEAR SENATOR: On behalf of the nation's local governments, we urge you to maintain your support for the Senate-approved $295 billion, six-year surface transportation bill by rejecting the cuts contained in Amendment #646 offered by Senator Jeff Sessions (AL) to H.R. 3.

The Sessions Amendment exacerbates state and local governments struggle with increasing congestion, crumbling and unsafe transportation infrastructure and federal clean air mandates. This occurs through the reduction of the Congestion Mitigation and Air Quality Improvement Program (CMAQ) by $4 billion, Transit Formula Grants and Research by $5 billion, Surface Transportation Enhancements by $1.1 billion, Transportation and Community and System Preservation Program by $100 million, Transportation Infrastructure Finance and Innovation Act by $100 million, and Federal Highway Administration by $400 million.

Under this amendment, the costs to meet the federal clean air mandate will be borne largely by local property tax payers. A $4 billion reduction in the CMAQ Program is an unfunded mandate for state and local governments. CMAQ is intended to help states and cities address the degraded air quality from cars and trucks. The 1990 Clean Air Act amendments require EPA to set National Ambient Air Quality Standards for pollutants considered harmful to public health and the environment. As a result, EPA has required that state and local governments achieve attainment status for an 8-hour ozone and a 2.5 micron Particulate Matter (PM 2.5) standard by 2008-2015.

We believe $295 billion will help address the pressing outstanding transportation infrastructure and federal clean air mandates of state and local government. We also believe this funding level will also expedite the passage of SAFETEA so that the Senate-House conference committee can begin its work as soon as possible. America's state and local elected officials urge you to oppose amendment #646 offered by Senator Jeff Sessions.

Thank you for your consideration to this matter.

Respectfully,

TOM COCHRAN,
Executive Director, U.S. Conference of Mayors.

DONALD J. BORUT,
Executive Director, National League of Cities.

LARRY E. NAAKE,
Executive Director, National Association of Counties.

ROBERT O'NEIL,
Executive Director, International City/County Management Association.

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,
Washington, DC, May 16, 2005.

DEAR SENATOR: The Senate may soon vote on an amendment by Senator Jeff Sessions to the federal highway and transit program reauthorization bill, H.R. 3, that seeks to reduce the measure's total investment level by $10.1 billion. The bipartisan leaders of the Senate transportation committees have repeatedly said the investment levels in H.R. 3 are necessary to write a reauthorization bill that does not pit states or modes of transportation against one another. Consequently the American Road & Transportation Builders Association (ARTBA) urges you to oppose this amendment.

The funding reductions in the Sessions Amendment would come from the following programs:

$5,000,000,000 transit formula grants and research

$4,000,000,000 Congestion Mitigation and Air Quality Program

$1,100,000,000 Transportation Enhancement Program

$400,000,000 Federal Highway Administration expenses

$100,000,000 Transportation Infrastructure Finance and Innovation Act Program

$100,000,000 Transportation and Community and System Preservation Program

Some—but certainly not all—of the proposed investment reductions under the Sessions Amendment would come from non-infrastructure activities. Rather than reducing H.R. 3's overall investment levels, it would be more appropriate to transfer funds from the non-infrastructure expenditures to core federal construction and maintenance programs to ensure these funds are used to improve roadway safety and alleviate traffic congestion.

Last week, 76 senators voted to support the deficit-neutral financing proposal for H.R. 3. It's time to complete action on the TEA–21 reauthorization measure. Please oppose the Sessions Amendment and support final passage of H.R. 3.

Sincerely,

T. PETER RUANE,
President & CEO.

SIERRA CLUB,
May 16, 2005.

Re oppose Sessions Amendment #646 to SAFETEA (S. 732).

DEAR SENATOR: The TEA–21 transportation reauthorization bill (''SAFETEA,'' S. 732) that sets policy and funding for highways and transit through the end of the decade contains critical provisions to improve transportation planning and development at the state and local level. We strongly urge you to reject an amendment by Senator Sessions that would substantialIy undermine these programs.

Specifically, the amendment would:

Cut $4 billion from Congestion Mitigation and Air Quality (CMAQ) improvement programs—provides funding for projects to reduce traffic congestion and improve air quality. Such a funding cut would greatly harm the ability of municipalities to comply with air quality requiremnts under the Clean Air Act.

Cut $5 billion from formula grants and research for transit—provides funding for security, planning, capital purchase and maintenance, facility repair and construction, and operating expenses where eligible. The program includes grants specifically targeted to

urbanized areas, to non-urbanized areas, and to transportation providers that address the special transportation needs of the elderly, low-income, and persons with disabilities.

Cut $1.1 billion from Surface Transportation Enhancement activities—provides funding for projects that add community or environmental value to transportation projects. This includes historic preservation, community development, and water pollution mitigation due to highway runoff. This is a crucial community building program widely acknowledged as the most popular TEA–21 program.

Cut $100 million from transportation and community and system preservation (TCSP) programs—provides funding for a comprehensive initiative to improve the relationships and synergy between transportation, community, and system development, and to identify useful private sector initiatives. This program has been a testing ground for many key local innovations, underpinning new directions in local and regional transportation planning.

Cut $100 million from projects being built under the Transportation Infrastructure and Finance and Innovation Act (TIFIA) of 1998—provides federal credit assistance to major transportation investments of critical national importance. The TIFIA credit program is designed to fill market gaps and utilize private sector investment.

America's mobility is critical to our economy and our national security. The transportation programs that would be cut by this amendment have a long history of successful implementation, and state and local transportation officials have come to rely on them to effectively manage transportation demand. We urge you to reject Senator Sessions' shortsighted amendment that substantially undermines the ability of local and state governments and communities to effectively solve transportation problems.

Sincerely,

DEBBIE SEASE,
Legislative Director.

ASSOCIATION FOR COMMUTER TRANSPORTATION,
Washington, DC.

Sen. JAMES INHOFE (R–OK),
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR INHOFE: I write to you today to ask your help in defeating an amendment to SAFETEA that has been offered by Senator Sessions (R–AL). The amendment, as I am sure you are aware, would reduce SAFETEA by $11.1 billion, but perhaps more importantly, would greatly reduce and in some cases eliminate core highway programs. In essence, the Sessions amendment undercuts the success of ISTEA and TEA–21 by drastically altering the make up of Federal-Aid Highway Assistance.

The U.S. Department of Transportation (DOT), in cooperation with the Texas Transportation Institute (TTI), recently released its annual report on congestion. While the report paints a grim picture, it also provides proof that we can reduce congestion by getting more out of our existing transportation system.

The annual report indicates that congestion is growing quicker than states and local governments are able to build the roadways and transit needed to handle increases in travel demand. The study finds that American's spent 3.7 billion hours and 2.3 billion gallons of fuel stuck in traffic congestion—producing a ''congestion invoice'' for the national economy of $63.1 billion in 2003. Congestion is not only a problem for those who live in the nation's largest metropolitan areas, but also for those in small to medium sized cities. No longer is congestion just a New York and Los Angeles problem, now it is Savannah's and Birmingham's as well.

The TTI report further quantifies the role efficient operating roads can have in reducing congestion. The report estimates that projects to improve the efficiency of existing capacity provided 336 million hours of delay reduction and $5.6 billion in congestion savings for the 85 urban areas studied with 2003 data. If these treatments were deployed on all the major roads in every area, an estimated 613 million hours of delay and more than $10.2 billion would be saved.''. The Sessions amendment would reduce, rather then enhance, a States ability to deploy these treatments.

For your consideration we have attached the recommendations that the TTI report makes. The Sessions amendment would cut those programs that aim to increase the efficiency of the transportation system. Thus we urge you to opppose the Sessions amendment and protect those programs that help get the most out of our transportation system.

Sincerely,

KEVIN SHANNON,
Executive Director.

MAY 16, 2005.

DEAR SENATOR: The 28 national associations and construction unions of the Transportation Construction Coalition (TCC) urge you to oppose an amendment to H.R. 3, the federal highway and transit program reauthorization bill, to be offered by Senator Jeff Sessions (R–AL) that would cut as much as $10.7 billion from the $295 billion authorized in the bill through FY2009. The amendment would undermine the Senate's overwhelming vote last week in support of an additional $11 billion for highways and transit over the next five years.

This additional funding is critical to help states maintain and improve their aging and congested highway system and improve safety. The additional funding is also necessary to provide an equitable return on user fee revenue collected in each state. Moreover, the proposed cut to the transit program represents nearly a year's worth of funding which would severely impact the ability of states and localities to provide public transportation services to their citizens, especially the elderly and disabled populations.

The Sessions amendment would cut the federal transit program by $5 billion and the Congestion Mitigation and Air Quality (CMAQ) program by $4 billion. In addition, under the Sessions amendment your state would lose National Highway System (NHS), Surface Transportation Program (STP), and Metropolitan Planning funds.

Attached are charts prepared by the Federal Highway Administration that illustrate how the Sessions amendment would affect the amount of highway funding your state would receive.

The TCC urges you to oppose the Sessions amendment.

Sincerely,

THE TRANSPORTATION CONSTRUCTION COALITION.

SURFACE TRANSPORTATION POLICY PROJECT,
Washington, DC, May 16, 2005.

Hon. JAMES INHOFE,
Chairman, Senate Environment and Public Works Committee, Washington, DC.

Hon. JIM JEFFORDS
Ranking Minority Member, Senate Environment and Public Works Committee, Washington, DC.

Hon. KIT BOND,
Chair, Senate Subcommittee on Transportation and Infrastructure, Washington, DC.

Hon. MAX BAUCUS,
Ranking Minority Members, Senate Subcommittee on Transportation and Infrastructure, Washington, DC.

DEAR CHAIRMAN INHOFE AND SENATORS BOND, JEFFORDS AND BAUCUS: On behalf of the STPP Coalition, I am writing to express our strong opposition to amendment #646 by Senator Jeff Sessions, proposing to reduce funding for many critical elements in the SAFETEA legislation before you.

The amendment threatens the basic structure of the current federal surface transportation program, disrupting program elements and policies first established in the 1991 ISTEA law. Among these is the effective reversal of a longstanding commitment under the Congestion Mitigation and Air Quality Improvement (CMAQ) program to assist local compliance efforts with applicable federal air quality standards. Now, with new and more rigorous standards for ozone and particulate matter coming on line, this amendment proposes dramatic reductions in CMAQ funding—by a total of $4 billion or more than 37 percent—that are certain to disrupt compliance air quality efforts in local areas where about one-half of the nation's population resides.

The amendment also threatens funding for transit programs, specifically commitments to transit research and transit formula grants. Ironically, this $5 billion reduction in transit funding in these investments not only eliminates the funding gains just approved by the full Senate last week but withdraws another $2.7 billion from the transit account. Undeniably, this amendment effectively reverses longstanding federal commitments to balanced funding between highway and transit programs. Importantly, the amendment also cuts the very successful Transportation Enhancements program by $1.1 billion and the TCSP program by $100 million, threatening both programs which now generate substantial benefits for taxpayers and their communities.

Taken together, this package represents an assault on continuing state and local efforts to deliver better transportation solutions and cheaper and more efficient travel options for the public and businesses, threatening public support for this transportation legislation. We urge your strongest opposition to the Sessions amendment.

Sincerely,

ANNE P. CANBY,
President.

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS,
Washington, DC, May 16, 2005.

Hon. MAX BAUCUS,
Ranking Minority Member, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR RANKING MINORITY MEMBER BAUCUS: On behalf of the American Association of State Highway and Transportation Officials (AASHTO), which represents the State transportation agencies in the fifty States, the District of Columbia, and Puerto Rico, I am writing to express opposition to an amendment offered by Senator Jeff Sessions that

would reduce funding for certain highway and transit programs by $10.7 billion over the remaining five years of the bill.

The Sessions amendment would completely reverse the funding increases, which were crafted by the Finance Committee and contained in your substitute amendment, by severely reducing funding for selected programs, including $5 billion from the transit formula program, $4 billion from the congestion mitigation and air quality program, $1.1 billion from the Transportation Enhancements Program, $400 million from FHWA's administrative expenses, $100 million from the Transportation Infrastructure Finance and Innovation Act Program; and $100 million from the Transportation and Community and System Preservation Program. We not only oppose the funding reduction altogether, but also believe that these programs, which enjoy broad support, should not be singled out in this manner.

We applaud the 76 Senators who voted to support the deficit-neutral financing proposal for H.R. 3. We urge you to oppose the Sessions Amendment, complete action on the hill and move to conference as quickly as possible.

Sincerely yours,

JOHN HORSLEY,
Executive Director.

Mr. BAUCUS. These groups are many. There are at least 28 national associations and construction unions that make up the Transportation Construction Coalition. I mentioned AASHTO. I didn't mention the Environmental Defense Fund and Sierra Club, which are also in opposition to the Sessions amendment. You don't see that many groups together, construction groups, unions, environmental groups, local governments, all standing together on the same amendment; that is, in opposition to an amendment, in this case the Sessions amendment. This is one such occasion.

I have heard it said that we should not increase funding for this bill because the House will not agree to it. I ask my colleagues, are we not a separate body? That can be turned around. The House should not pass something because we might not agree to it. They are a body, we are a body. We have just as much right as they to indicate what we should do.

As I have said in this Chamber many times, legislating is the art of compromise. It is time for the administration and the House to demonstrate a willingness to work with the Senate on this bill. We are now ready to go to conference. We have less than 2 weeks until the expiration of the current extension of these programs. We have to get moving. The only chance we have to get this bill done is if we act quickly, reach an agreement soon on the funding levels in this bill, that once we have reached an agreement on the funding levels, I think virtually everything else will fall into place.

I urge my colleagues in the House and in the Senate, also in the executive branch, to work with us, find an agreeable funding level for these programs. We cannot afford to argue for months about this issue. We have tough decisions to make, and the time is now to make them. We cannot afford to govern by extensions. States and local governments and the construction community are already feeling the pain from six extensions we have had to date. The time is now to roll up our sleeves, get to conference, and send a bill to the President. Then we can help the American people in doing so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Thank you, Mr. President.

I am pleased to be on the Senate floor today to talk about this long overdue Transportation reauthorization bill. We need to pass this bill, and we need to pass it this year. We have not had a transportation bill in more than 2 years for America. The delay has caused the State departments of transportation across America and in Colorado to operate under a series of short-term extensions. That is unacceptable while we deal with the major issues that are facing the country, including the issue of transportation. The delay in the passage of the new transportation bill has cost the country about 100,000 jobs and created real uncertainty for States that are trying to make construction decisions at a time when they are also trying to recover from a devastating fiscal crisis.

The passage of a new transportation bill is central. In fact, there is nothing like the passage of a new transportation bill to create those jobs and provide the much needed funding to jump-start the economic picture in Colorado and in many other places across our country. In fact, it is exactly the kind of business the American people expect us to be conducting.

This important legislation will create thousands of jobs in Colorado as well as across the country and support important transportation infrastructure needs on roads in our cities, in rural areas, on our transit systems, and our bridges. The legislation will also lay the groundwork to provide important high-priority projects across my State. These are essential projects that will simply not get completed without the passage of this legislation.

This legislation will reinvigorate our economy and make our Nation stronger. The first step toward this goal was with our vote to increase the funding level to $295 billion. I highly commend my colleagues, Senator GRASSLEY and Senator BAUCUS, for working to increase funding without adding to the national deficit. This additional funding will give an increase to my State of Colorado of about $156 million more than we receive under current law and about $26 million more than the House-passed transportation bill. That is $26 million more a year than the House-passed transportation bill.

Here is what this additional $26 million will do for my State of Colorado. It will allow the Colorado Department of Transportation to invest in important projects across our State such as our new transit initiative, TREX, as well as investments in U.S. Highway 160, Interstate 70, and Interstate 25. This is what the $26 million increase will not do, however. It doesn't add to our Nation's deficit. The additional funding is completely paid for. These are the types of choices I am proud to make for Colorado, and these are the choices we should all be making for America.

In Colorado, 30 percent of our major roads are congested, 43 percent of our roads are in poor or mediocre condition, and almost 20 percent of our bridges are structurally deficient. We need this increase in transportation dollars, and I will continue to work with my colleagues to ensure that the highest level of funding for our transportation infrastructure is maintained. Nonetheless, as many other States here, Colorado is a donor State. That is Washington-speak about those States that put more money into the highway user trust fund than what we get back.

There is a real issue of fairness I would like my colleagues to take a hard look at over the years ahead, fairness for the people of Colorado and all of the other States who pay the same gas tax as the rest of the country every time they fill up at the gas pump, and then at the end of the day we don't get back the same return when the Federal Government returns that money to the States. In Colorado today, for every dollar a Coloradan puts into the highway trust fund, our State receives about 90 cents back. Under the Senate proposal, in 2009, Colorado will receive 92 cents back. That is a move in the right direction, but that is still much less than what is equitable for Colorado and other donor States.

We need to pass this bill, and while the proposal being considered in the Senate certainly is a step in the right direction, it does not provide the level of investment that would address Colorado's growing transportation needs as well as the needs of donor States.

To correct this unfairness, we need to take some important steps. First, I am proud to support the increase in the overall funding of this bill without adding to the deficit. As I have said, this is a first step in the right direction. Secondly, we have to make sure we protect that increase in conference with the House. The President has indicated he will veto this larger investment, leaving Colorado with a level of funding that will not support the needs of our State. We must convince the President not to veto this additional money. Keep in mind the rising cost of steel and oil have also driven up the cost of construction, and the President's own Department of Transportation said the country needs a level of funding $100 billion more than the President has said he supports.

The third step we need to take is to correct the unfair formula that disadvantages States such as ours. I hope my colleagues will help us continue to look for ways to provide adequate investment that will give donor States

such as Colorado the rate of return we need and deserve.

Having a first-class transportation system is critical to the Nation and to Colorado. I look forward to the passage of this very important bill. I will continue to work to see that the most basic level of infrastructure funding is not only maintained but improved so we can have safe roadways and robust economic development throughout the State.

Finally, let me say this is the kind of legislation the Senate should be working on. Because at the end of the day, this is about doing the work the people of America care about. They want us to work on their behalf every day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we are 12 minutes away from the vote that will be taken and then recessing until 2 o'clock and coming back and finishing probably two votes and then final passage. There won't be time to debate the point. There will be a couple minutes equally divided. The Senator from Arkansas wants to participate in that.

Since I will not be able to talk about the Sessions amendment, let me make a couple of points. I don't have a better friend in this body than Senator SESSIONS. He and I are both very conservative, always ranked that way. He has an amendment to cut the transportation bill by $10.7 billion and the intent is for $5 billion of that amount to be taken from mass transit and $5.7 billion to be taken from the highway program.

The interesting thing about this is the amendment would only cut contract authority, which is the upper limit of what may be spent on the program. There is no reduction in guaranteed spending. Everybody knows last year in our bill, there was $318 billion in contract authority and $303 billion in guaranteed spending. That is the figure you are concerned with. There is no reduction in guaranteed spending on the Sessions amendment. Guaranteed spending is the amount the bill requires to be spent on the program. So there is no change in actual spending or the deficit.

The amendment also ignores the complexity of the formula. As a result, the amendment drops the contract authority of some donor States below the minimum rates of return identified in the bill. For example, Arizona's rate of return would drop below 90.3 percent in 2005 and 90.9 percent in 2006 as opposed to 92 percent. It is a huge difference. Keep in mind that is contract authority.

It is not just the donor States that are hurt by the amendment. Pennsylvania, an older State, for example, would lose $258 million in contract authority and drops from a 15-percent increase over TEA–21—that would be 7 years ago—down to 11 percent, undoing the gains they received at that time.

Finally, I remind everybody that Senators GRASSLEY and BAUCUS increased the amount of money. The Sessions amendment is supposedly going to take back that $11.2 billion increase. But when we passed that amendment, the Finance Committee—and it is their job; read the Senate rules, that is what the Finance Committee is supposed to be doing, go in there and find the money—they said: Yes, we know we can spend the additional $11.2 billion. It is not going to increase the deficit. And then they came along, and that fact was verified by the Joint Committee on Taxation. They are the ones who said what the Finance Committee said is right.

Senator SESSIONS and I are always in the top three most conservative Members when the ratings systems come out of all 100 Senators. I want people to know my view on the amendment. I know the Senator is well meaning, but it is one I will be opposing for those very reasons.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I understand there are 6 minutes remaining on this side.

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I yield myself 3 of the 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I join my colleagues in very strong opposition to the Sessions amendment. It is a bad idea, both from the standpoint of process and policy. First, it would undo the carefully balanced package developed by the four committees of jurisdiction. Four committees have worked putting this package together: the Environment and Public Works Committee, the Finance Committee, the Banking Committee, and the Commerce Committee. All have been involved in this process. They have spent literally years laying the groundwork for this bill, working ever since passage of the last bill. When we went through the last session of congress, we could not get a bill passed. We have since had interim extensions which were of concern.

The chairman of the Environment and Public Works Committee and the ranking member have spent countless hours trying to put together a sensible and reasonable package, making tough decisions regarding funding allocations among the various programs. This amendment would begin the process of unraveling those committee decisions, both as they affect highways and transit. I warn my colleagues at the outset, this is a bad way to proceed on a complicated and important piece of legislation which is important to every single Member of this body—important to their Governors, important to their county officials, and right on down the line.

We know as a matter of policy there is tremendous stress on our transportation system. The costs we pay in congestion have been detailed by the Texas Transportation Institute. My own view is we need even more investment in our transportation system, and it is provided for in this bill.

I understand the practicalities of the situation in which we find ourselves. Failure to make the needed investment in transportation systems would constrain our economic competitiveness and leave us at a disadvantage in world competition.

There are very few bills that are so essential to the economic well-being of our country as this bill. This transportation infrastructure bill is critical to economic development and economic competitiveness in all 50 States. Failure to make the investment that is necessary will constitute a setback to our efforts to build a better and stronger economy.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAUCUS. Mr. President, I yield 2 more minutes to the Senator from Maryland.

Mr. SARBANES. I thank the Senator from Montana.

The transportation industry is strongly opposed to this amendment. For example, to take one instance of a group we deal with, given the jurisdiction of our Banking Committee over mass transit, the American Public Transportation Association, which represents 1,500 transit agencies across the country, observes that the Sessions amendment would undo the bipartisan and widely supported efforts in the Senate in support of increased and balanced transportation infrastructure investment and should be strongly opposed.

I ask unanimous consent to print the letter to Chairman INHOFE in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Let me again underscore how vitally important the programs authorized in the underlying bill are for the economic and social health of our Nation. As with any large and complex piece of legislation, not everyone will be satisfied. I think this bill represents a reasonable approach to meeting our urgent transportation needs. The pending amendment would begin the process of unraveling that approach to which so much effort has been devoted by so many people.

I particularly rticularly thank Chairman INHOFE and Ranking Member JEFFORDS and Chairman GRASSLEY and Ranking Member BAUCUS for their involvement in trying to shape a good piece of legislation. I didn't agree with every decision that is in this package, but I see it as a significant forward step in dealing with a very important national priority. I hope my colleagues will reject the Sessions amendment and that we will then go on to approve the Inhofe substitute amendment and final passage of this bill.

I yield the floor.

EXHIBIT 1

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington, DC, May 16, 2005.

Hon. JAMES M. INHOFE,
Chairman, Senate Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN INHOFE: On behalf of the American Public Transportation Association (APTA) and its more than 1,500 member organizations, I write to express our strong opposition to the amendment Senator Sessions offered—#646—to H.R. 3. That amendment would sharply reduce funding of a number of programs in H.R. 3 by some $10.7 billion over six years.

It is critically important that H.R. 3 be passed by the Senate at the enhanced level of funding included in the Inhofe substitute amendment. The Inhofe substitute amendment is a balanced and carefully crafted measure that has strong bipartisan support from the leadership of the Senate Banking, Environment and Public Works, and Finance Committees. Transit and highway needs are critical and have been documented by the American Association of State Highway & Transportation Officials and Cambridge Systematics, Inc. The Inhofe substitute amendment addresses those needs in a balanced approach supported by a broad range of affected groups and coalitions. In contrast, the amendment offered by Senator Sessions would dramatically cut a number of programs across the board, including the transit formula program by $5 billion, the congestion mitigation and air quality program by $4 billion, and other programs that enjoy broad bipartisan support.

In short, the Sessions amendment would undo the bipartisan and widely supported efforts in the Senate in support of increased and balanced transportation infrastructure investment and should strongly be opposed.

If you have questions on this matter, please have your staff contact Rob Healy of APTA's Government Affairs Department at (202) 496–4811 or email *rhealy@apta.com.*

Sincerely yours,

WILLIAM W. MILLAR,
President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise to speak in opposition to the Allen amendment. We had this discussion last week, but we have a couple minutes each to sum up what is at stake.

The language in the Senate Commerce Committee bill guarantees funding if a State does one thing, and that is have or pass a primary seatbelt law. We need to give incentives for people to use their seatbelts. We need to give incentives to the States if they do that. This is about doing the thing that would have the greatest effect on saving lives of anything we could do in this legislation, and we should go forward with it.

Under the Allen amendment, a State has no certainty that any actions it takes to increase seatbelt use will result in an 85-percent or higher use rate. So that is a worthy goal, but very few States have been able to do that. We are trying to encourage more States to do better than they are. My own State only has a 63-percent seatbelt use, and I think we need to encourage more activity in the States. Only three States have ever reached the 85-percent use rate.

The language we have in the bill has near unanimous support nationwide among traffic safety organizations from USTA to the Automobile Manufacturers Association to the American Automobile Association, the American Academy of Pediatrics.

One thing I was impressed with when we had the hearings in the committee was the National Highway Safety Transportation Safety Administrator Jeff Runge, who is a doctor with expertise in this field. He said the Commerce highway safety bill will ''save more lives, and do it faster and cheaper than any other highway safety proposal Congress is likely to consider this decade.''

It would be a huge mistake to take away this incentive but in effect set a goal most States can't achieve and, therefore, we would not be able to save an estimated 1,200 or more lives a year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, in these few moments before the vote, I commend the chairman of our Senate Environment and Public Works Committee, Senator INHOFE, along with Senators JEFFORDS and BAUCUS, for a job well done. We can't forget Senator REID, whom we consider an emeritus member of the EPW Committee, who has helped a great deal.

Tremendous staff work has gone into this. I appreciate the great work of my staff: Allen Stein, John Stoody, Heideh Shahmoradi; Senator INHOFE's staff, Ruth Van Mark, James O'Keeffe, Andrew Wheeler, Nathan Richmond, Greg Murrill, Alex Herrgott, John Shanahan, Angie Giancarlo, and Rudy Kapichak; Senator JEFFORDS' staff, JC Sandberg, Allison Taylor, Malia Somerville, JoEllen Darcy, and Chris Miller; and Kathy Ruffalo with Senator BAUCUS. Kathy brings a great deal of expertise to this effort.

We urge passage of this bill. It doesn't go as far as most of us would like, but it certainly moves us in the right direction. We appreciate the great work of all who cooperated on it.

The PRESIDING OFFICER (Mr. BURR). The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, after nearly 3 years and 6 temporary extensions, the Senate is on the verge of passing a monumental highway bill. We will provide over $295 billion that will create thousands of jobs and keep our transportation infrastructure healthy.

This legislation did not happen by itself—it took hard work and perseverance. First, I want to thank Senator INHOFE and Senator JEFFORDS, from the Environment and Public Works Committee, as well as Senator BOND, the chairman of the Subcommittee on Transportation and Infrastructure. They provided excellent leadership and I know their staff stayed up many a sleepless night.

For Senator INHOFE's staff, I want to thank Ruth Van Mark, James O'Keeffe, Nathan Richmond, Angie Giancarlo, Andy Wheeler, Marty Hall, Greg Murrill, Alex Herrgott, Rudy Kapichak, John Shanahan, Frank Fannon and Michele Nellenbach.

For Senator JEFFORDS' staff, I want to thank JC Sandberg, Ken Connolly, Alison Taylor, Jo-Ellen Darcy, Chris Miller, Margaret Wetherald, Mary Francis Repko, Malia Somerville, and Carolyn Dupree.

And for Senator BOND's staff, I want to thank Ellen Stein, John Stoody, and Heideh Shamoradi.

Senator SHELBY and Senator SARBANES also deserve recognition. They played an important role developing the transit title in this bill. I also want to thank my good friend Senator GRASSLEY, the chairman of the Finance Committee, for his commitment to the transportation program.

Let me take a moment and speak about the hard work of the Finance Committee staff. The House bill simply did not provide enough money for our highway infrastructure. The Finance Committee faced a difficult task. We needed to find additional revenue, but we also needed to pay for it. As is the rule on the Finance Committee, we worked in a bipartisan spirit to find an extra $7.8 billion for the highway trust fund, and all of it is paid for.

I also want to thank some staff members in particular. I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Ed McClellan, Dean Zerbe, John O'Neill, and Nick Wyatt.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, Jon Selib, Anita Horn Rizek, Judy Miller, Melissa Mueller, Ryan Abraham, and Wendy Carey. I also thank our dedicated fellows, Mary Baker, Jodie Cruz, Cuong Huynh, Richard Litsey, Stuart Sirkin, and Brian Townsend.

Finally, I thank our hardworking interns: Rob Grayson, Emily Meeker and Waylon Mathern.

This legislation really was a team effort. I hope that we can keep working together as we move to conference and hopefully get this legislation done before the end of the month.

The PRESIDING OFFICER. All time has expired.

AMENDMENT NO. 611

The PRESIDING OFFICER. There are 2 minutes of debate evenly divided on the Allen amendment.

The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, let me know when 1 minute is left, please.

My amendment sets a goal of 85 percent usage of seatbelts, and if a State achieves that, whichever way they may

achieve it, they would get these incentive grants.

The PRESIDING OFFICER. The Senator is reminded that he only has 1 minute.

Mr. ALLEN. Thank you.

The purpose of my amendment is to not have the Federal Government as an officious nanny telling the States how to achieve seatbelt usage rates. Twenty-nine States don't have primary enforcement of seatbelt laws and 21 do. Seven States have 90 percent usage. Fifteen States have over 85 percent. The underlying proposal will actually reward States that have lower seatbelt usage only because they have primary enforcement seatbelt laws, while others that do not have primary enforcement seatbelt laws have a higher use rate.

I don't think the people in the States who have paid into the highway trust fund ought to be dictated to by officious Federal nannies; we should trust the people in the States to make these decisions as opposed to trespassing on those prerogatives.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

Mr. PRYOR. Mr. President, I wish to make four points.

First, I voice my opposition to the Allen amendment. NHTSA, in every study I have found, says the best way to reduce fatalities on the highways is for States to enact primary safety belt laws.

Secondly, this bill provides an incentive, not a penalty. That is something we need to remember and understand. This is maybe a departure from past policies, but the bill, as currently written, provides incentives, not penalties.

Third, years ago, the Department of Transportation set an attainment goal of 90 percent. This amendment would move us back to 85 percent. We are moving backward instead of moving toward our goal; we are backing off of the goal.

Fourth, it is not so much about equity or fairness, but it is about saving lives. When you look at the safety groups and listen to the studies and look at the statistics—whatever measure you want to make—this is about saving lives and States having primary safety belt laws.

I thank the chair.

The PRESIDING OFFICER. Under the previous order, all time under rule XII is yielded back.

The question is on agreeing to amendment No. 611 proposed by the Senator from Virginia, Mr. ALLEN.

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 14, nays 86, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—14

Alexander	Ensign	Nelson (FL)
Allen	Feingold	Snowe
Baucus	Gregg	Sununu
Bond	Kyl	Vitter
Collins	Lugar	

NAYS—86

Akaka	Dole	McCain
Allard	Domenici	McConnell
Bayh	Dorgan	Mikulski
Bennett	Durbin	Murkowski
Biden	Enzi	Murray
Bingaman	Feinstein	Nelson (NE)
Boxer	Frist	Obama
Brownback	Graham	Pryor
Bunning	Grassley	Reed
Burns	Hagel	Reid
Burr	Harkin	Roberts
Byrd	Hatch	Rockefeller
Cantwell	Hutchison	Salazar
Carper	Inhofe	Santorum
Chafee	Inouye	Sarbanes
Chambliss	Isakson	Schumer
Clinton	Jeffords	Sessions
Coburn	Johnson	Shelby
Cochran	Kennedy	Smith
Coleman	Kerry	Specter
Conrad	Kohl	Stabenow
Cornyn	Landrieu	Stevens
Corzine	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Thune
Dayton	Lieberman	Voinovich
DeMint	Lincoln	Warner
DeWine	Lott	Wyden
Dodd	Martinez	

The amendment (No. 611) was rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Continued

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding we are now going to the Sessions amendment.

Mr. SESSIONS. Mr. President, I understand there is a unanimous consent to have 2 minutes, 1 minute on each side. I prefer to have more. I ask unanimous consent we have 3 minutes on each side.

Mr. INHOFE. I object. Two minutes on each side.

Mr. SESSIONS. Two minutes.

Mr. INHOFE. Mr. President, I offer Senator LAUTENBERG a moment to make a statement. He has been working with us on his amendment. It has been withdrawn.

I certainly yield to Senator LAUTENBERG for no more than 5 minutes.

AMENDMENT NO. 619, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I appreciate the recognition. I will talk about my amendment No. 619 to crack down on our most dangerous, highest risk drunk drivers—repeat-offender, high-blood-alcohol-content drivers, drivers who have had so much to drink they have nearly double the legal limit of alcohol in their system.

I am proud to have the Senator from Ohio, Mr. DEWINE, as a cosponsor of this amendment. I ask unanimous consent Senator CORZINE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Our amendment updates the current Federal repeat offender law so that it can be based on measures that have been proven to be effective in preventing drunk driving. It requires alcoholism assessments and treatment when necessary. It would require a 1-year license suspension with at least 45 days of no driving. The rest requires the use of an ignition interlock, a device that only lets the car operate when you blow into it and no alcohol is detected.

As for repeat offenders, it keeps current requirements for short-term jail time, closes a loophole for community service. The National Transportation Safety Board states that from 1983 through 1998 at least 137,000 people died in crashes nationwide involving higher risk drunk drivers. The research funded by the alcohol industry itself showed that 58 percent of alcohol-related deaths in 2000 involved drivers with BAC levels of .15 or above. That is outrageous. That person is totally without ability to function properly. This is consistent with government research that shows for drivers 35 and over, those with a .15 BAC or higher, they are 382 times more likely to be involved in a fatal crash than a sober driver.

It is important to note that our amendment does not create any new penalties for States. It merely updates the current program.

Our amendment does not affect a social drinker and is aimed squarely at higher risk drivers who are the core of the drunk-driving problem in this country. The National Transportation Safety Board, the Mothers Against Drunk Driving, and even groups funded by the alcohol industry, all agree we need to do more when it comes to repeat offenders and drivers with blood alcohol content levels twice the legal limit.

I understand the managers of the bill have agreed to accept the amendment as modified. I am grateful. I thank the managers, Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator BAUCUS, for working with Senator DEWINE and me. The amendment will make a meaningful difference in the number of lives we save each year from the epidemic of drunk driving.

In my early days in the Senate when President Reagan was in office, when Senator Dole was then-Secretary of Transportation, we put in a restriction on age and driving, age on alcohol and driving. We have saved 1,000 young people from dying on the highways every year for more than 20 years.

What a wonderful thing it is for a family not having to mourn the loss of a child, not having to see a policeman at the door in the dark of night.

MADD has been a stalwart ally. Together we will continue to save lives. I am very grateful to Senator INHOFE, Senator JEFFORDS, and the committee for their support on this amendment.

I yield the floor.

Mr. INHOFE. Mr. President, the distinguished junior Senator from Alabama, one of my closest friends, made a very reasonable request for 6 minutes equally divided. If he wants to restate the request, it is without objection.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 6 minutes to be equally divided for debate before this vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 646, AS MODIFIED

Mr. SESSIONS. I thank the distinguished chairman. He is one of my favorite Senators. There is no one I respect more. He has worked hard, and so has the committee, to maximize what we can do to improve transportation infrastructure in this country. I respect that.

The problem is, we have passed a budget. The facts are that in pumping more money into highways—which all Members want to see, as this bill does—we have created a $10.7 billion shortfall. The offsets are revenue enhancements or tax increases that have been proposed either are unlikely to reach that $10.7 billion and/or will not be approved by the House of Representatives. That is a pretty well-known fact.

In addition, the President has stated he is not going to sign the bill. He started out at $256 billion. He went to $283 billion, and that is where he is going to stay.

What can we do to improve funding for highways, which affect every State, every corner of this country, not just certain areas? I proposed an amendment that I believe does the right thing. It does what our constituents pay us to do, and that is to make choices, make decisions.

I have proposed where the bill has a 31-percent increase in spending, we alter that; that we reduce the increased level of spending for matters not critical to our infrastructure; that we reduce the mass transit part of the bill by about $5 billion, still leaving an increase in mass transit spending.

We can get there. We can be sure the money we spent for highways will be sufficient, the President will sign the bill, and we will be fiscally responsible and be within our budget.

We are spending almost $300 billion. Can't we stay within the budget? Can't we be fiscally responsible and tight in how we spend this money?

My amendment reduces some of the increases in the other accounts, including mass transit. By the way, 46 percent of the mass transit funds are spent on four States in this country alone, and that does not count $8 billion in bureaucracy and overhead that goes with that in research. This would be the right approach.

I thank my colleague, Senator INHOFE, for his work on the bill. I know he has tried to do the impossible, which is to get more and more for our highways without having to bust the budget. I am afraid that is what we are doing. If we do this, we will fund highways for every State in the country. We will put the money where we need to, in concrete, so that every citizen can use for 100 years from now. The result is good for our budget and our integrity as we go through this process.

This is the first big bill that deals with a budget conflict. We do not need to fail a test on the first piece of legislation.

I thank Senator INHOFE for allowing me the additional time. I believe this is an important amendment. I urge my colleagues to vote fiscally responsibly, to affirm the budget, and pass legislation that will give us highway spending levels that we want and that the President will sign.

I yield the floor.

Mr. JEFFORDS. I yield myself such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, several days ago, 76 Members of this body voted to support additional investment in this Nation's surface transportation program.

They did not vote for an extravagant increase, instead they voted for a modest 4 percent increase over the President's request. With this modest increase, we will barely be able to keep pace with the enormous maintenance needs facing our surface transportation system with little left over for improvement.

Now the junior Senator from Alabama asks to return to an inadequate level of investment.

He asks the American family to waste additional time and money stuck in traffic. He asks us to vote to let more of our Nation's roads and bridges fall into a state of disrepair—all over a modest 4 percent increase.

I will vote against the Sessions amendment and I urge my colleagues to do the same.

Mr. INHOFE. I have a unanimous consent request to make. I ask unanimous consent that Lautenberg amendment No. 619 be modified with the changes at the desk and be accepted. Further, I ask that upon disposition of the Sessions amendment, the Inhofe substitute amendment, as amended, be agreed to, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 619), as modified, was agreed to, as follows:

Strike section 1403 and insert the following:

SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIVERS DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Section 164 of title 23, United States Code, is amended to read as follows:

"§ 164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence

''(a) DEFINITIONS.—In this section:

''(1) BLOOD ALCOHOL CONCENTRATION.—The term 'blood alcohol concentration' means grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

''(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

''(3) HIGHER-RISK IMPAIRED DRIVER LAW.—

''(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that—

''(i) an individual described in subparagraph (B) shall—

''(I) receive a driver's license suspension;

''(II)(aa) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 45 days; and

''(bb) for the remainder of the license suspension period, be required to install a certified alcohol ignition interlock device on the vehicle;

''(III)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

''(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual; and

''(IV) be imprisoned for not less than 10 days, or have an electronic monitoring device for not less than 100 days; and

''(ii) an individual who is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration level of 0.15 percent or greater shall—

''(I) receive a driver's license suspension; and

''(II)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

''(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual.

''(B) COVERED INDIVIDUALS.—An individual referred to in subparagraph (A)(i) is an individual who—

''(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a period of 7 consecutive years; or

''(ii) is convicted of a driving-while-suspended offense, if the suspension was the result of a conviction for driving under the influence.

''(4) LICENSE SUSPENSION.—The term 'license suspension' means, for a period of not less than 1 year—

''(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

''(B) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.

''(5) MOTOR VEHICLE.—

''(A) IN GENERAL.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways.

''(B) EXCLUSIONS.—The term 'motor vehicle' does not include—

''(i) a vehicle operated solely on a rail line; or

''(ii) a commercial vehicle.

''(b) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), on October 1, 2008, and each October 1 thereafter, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used in accordance with section 402(a)(3) only to carry out impaired driving programs.

''(2) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—The Secretary shall—

''(A) reserve 25 percent of the funds that would otherwise be transferred to States for a fiscal year under paragraph (1); and

''(B) use the reserved funds to make law enforcement grants, in connection with nationwide traffic safety campaigns, to be used in accordance with section 402(a)(3).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 164 and inserting the following:

''164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.''.

The amendment (No. 605), as amended, was agreed to.

AMENDMENT NO. 646, AS MODIFIED

Mr. INHOFE. Mr. President, in these 2 minutes, let me suggest two things I don't want to happen. I don't want my good friends who are conservatives on the Republican side to vote for this Sessions amendment with the idea that this is a conservative amendment. If you want to prove yourself and your conservative credentials as this being the way to do it, it is not.

I am looking at the current rating of the American Conservative Union. I am very proud of Senator SESSIONS because he is the ninth most conservative Member of this Senate. But guess who the No. 1 most conservative is. It is me. I stand here opposing—though I hate to do it—this amendment for that one reason.

The second reason is, this is very important. Inadvertently, I know it was not the intent of the Senator from Alabama, they omitted the wrong sections. So the sections of title I they amended are section 1101 and 1103 and nothing in title III. If you want to give guaranteed spending, you have to get to title III or section 102 of title I. That is where it is.

So all we have done with this amendment is attempt to reduce the contract authority which does not make any difference in terms of how much money is going to be spent. It is very important for people to understand that because I would not want them to be thinking you will be able to reduce something by doing it.

Second, the other point I want to make is, we have a Finance Committee. It is headed by Senator GRASSLEY, and the ranking minority is Senator BAUCUS. They have done a great job. We have gone to them with this bill and said we need to be able to pay for this, but we need a little bit more money. Can you find it? They found it.

The Joint Tax Committee validated what they said and, consequently, we have something that will not add to the deficit. It will do a little better job of taking care of donor States that will not be taken care of if this amendment should pass. I ask Members respectfully to reject the Sessions amendment.

Have the yeas and nays been requested?

The PRESIDING OFFICER. They have not.

Mr. INHOFE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 646, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 16, nays 84, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—16

Brownback	Frist	McCain
Burr	Graham	Sessions
Coburn	Gregg	Sununu
Cornyn	Hagel	Thomas
DeMint	Hutchison	
Enzi	Kyl	

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Akaka	Dodd	McConnell
Alexander	Dole	Mikulski
Allard	Domenici	Murkowski
Allen	Dorgan	Murray
Baucus	Durbin	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Feingold	Obama
Biden	Feinstein	Pryor
Bingaman	Grassley	Reed
Bond	Harkin	Reid
Boxer	Hatch	Roberts
Bunning	Inhofe	Rockefeller
Burns	Inouye	Salazar
Byrd	Isakson	Santorum
Cantwell	Jeffords	Sarbanes
Carper	Johnson	Schumer
Chafee	Kennedy	Shelby
Chambliss	Kerry	Smith
Clinton	Kohl	Snowe
Cochran	Landrieu	Specter
Coleman	Lautenberg	Stabenow
Collins	Leahy	Stevens
Conrad	Levin	Talent
Corzine	Lieberman	Thune
Craig	Lincoln	Vitter
Crapo	Lott	Voinovich
Dayton	Lugar	Warner
DeWine	Martinez	Wyden

The amendment (No. 646), as modified, was rejected.

Mr. INHOFE. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RAIL CROSSING SAFETY FUNDING

Mrs. BOXER. Mr. President, I am pleased that this bill that we are considering has provisions to address this Nation's problems of grade crossings and the need for grade separations.

According to the Federal Railroad Administration, ''grade crossings are the site of the greatest number of collisions and injuries'' in the railroad industry. In 2000, there were 3,502 incidents at grade crossings.

This year in Glendale, CA, there was a tragic commuter train crash that resulted in 11 deaths and more than 200 injured.

In addition, the large volume of freight train traffic from California's ports to the rest of the Nation is a public safety hazard in many communities in California where traffic—including emergency vehicles—is severely delayed at these grade crossings.

In Riverside, CA, from January 2001 to January 2003, trains delayed ambulance and fire protection vehicles 88 times. This translates into more people possibly dying from health emergencies such as heart attacks, and larger and more deadly fires. If there is another terrorist attack, imagine what would happen if emergency first responders could not get across the tracks.

That is why I am pleased that this bill includes my language to require the Federal Railroad Administration to make recommendations to Congress on ways to fix this.

I am also pleased that this bill includes funding that States may use to separate railroad tracks and roads, and I am wondering whether the Senator from Missouri would enter into a colloquy on this matter.

Mr. BOND. I am happy to. And let me say that I agree with the Senator from California that there is a serious problem with grade crossings in this country, and I commend her for her leadership on this issue.

Mrs. BOXER. As I understand it, the Freight Transportation Gateways program has a provision—the ''Freight Intermodal Connections on the National Highway System''—that would allow States to use a portion of their highway funds to build bridges and tunnels for grade separations. California would receive $73 million each year.

Mr. BOND. Yes, this program would allow California—and all States—to use 2 percent of its National Highway System funding for three purposes, one of which is to eliminate grade crossings.

Mrs. BOXER. A second provision is the ''Elimination of Hazards Relating to Railway-Highway Crossings,'' which provides at least a $178 million set-aside from the Highway Safety Improvement Program each year for the elimination of hazards at railway-highway crossings. Does this include projects on grade separations?

Mr. BOND. Yes, up to 50 percent of this funding could be used for grants specifically for grade separations.

Mrs. BOXER. Finally, there is a third provision that authorizes grants for rail line relocation projects. This would create a grant program that would allow States to receive funding to improve rail lines that pass through a municipality. This includes projects on grade separation. As a member of the Senate Commerce Committee, I am

pleased that Chairman STEVENS and Ranking Member INOUYE included this provision.

These provisions are a good start. I hope to continue to work with my colleague to ensure that Federal funding is available to help States and localities undertake grade separation projects so we can improve safety and relieve congestion where railroads and highways meet.

Mr. BOND. I will be happy to continue working with the Senator from California.

Mrs. BOXER. I thank the Senator.

REINFORCED CONCRETE DECKING

Mr. SANTORUM. Mr. President, I will discuss steel grid reinforced concrete decking—a product that I understand to have significant technological benefits and the ability to accomplish the goals of bridge and highway officials across the country. I am told that the following are benefits of steel grid: long service life; rapid and/or staged installation; and reduced maintenance costs and closures. Despite these benefits, states are hesitant to use steel grid reinforced concrete decking because of the initial cost per square foot of steel grid. However, because of construction benefits and the fact that steel grid weighs much less than the cast-in-place deck alternative, it is my understanding that using this product can reduce the total cost of a project. Because this type of deck system is underused, I urge your support for language in the conference report that highlights the benefits of steel grid and encourages the further development and use of this product.

Mr. INHOFE. Mr. President, I thank the Senator from Pennsylvania for his attention to steel grid reinforced concrete decking and the potential it holds. I look forward to working with Senator SANTORUM on this issue.

DIRECT DELIVERIES OF AVIATION FUEL

Mr. SMITH. Mr. President, I would like to ask a question of the chairman of the Finance Committee.

I am concerned about the application of one of the fuel tax provisions of the JOBS bill. Some people were cheating, by paying no tax on aviation fuel and then selling the fuel for highway use. To prevent this, we moved the collection point upstream, to the point at which fuel is removed from the rack.

At the same time, we created exceptions, for situations where there is little risk of evasion. One important exception is for fuel delivered by pipeline to a secure airport that goes from a secure fuel tank at an airport terminal directly into a commercial aircraft.

Here is the problem. Fuel suppliers often enter into long-term contracts to deliver fuel throughout an entire region. In some cases, they don't have their own fuel tanks at a particular airport. So the company enters into a contract with a fuel supplier, referred to as a ''position holder,'' who does have fuel available at that airport. In these cases, when planes come in for refueling, the legal title to the fuel shifts from the position holder to the reseller, then to the airline when the fuel goes into the commercial aircraft.

The concern is that situations like this may be disqualified from the exception because some believe the passage of title means that the fuel is not considered to go ''directly'' from the position holder to the commercial aircraft. As a result, the transaction could be subject to the burdens of the new rules even though I believe there is absolutely no risk of evasion.

In the chairman's markup, I filed an amendment to address this concern by clarifying that these so-called ''flash title'' transactions qualify for the exception, as long as they meet all of the other applicable requirements. I understand, however, that some believe my amendment was unnecessary because the transactions could already qualify.

This is an important matter to me. It affects many companies, including a Salem, OR, company that employs more than 100 people and provides an important service to airlines throughout my State.

I would like to get a clarification of this point. Is it the chairman's understanding that a transaction that otherwise qualifies for the exception in section 4081(a)(2)(C) and 4081(a)(3) and (4), which allows commercial aviation to self-assess fuel tax at the commercial rate, when the commercial airline receives fuel at one of the secure airports through the hydrant system exception, is not disqualified merely because of the incidental transfer of title from the original position holder to the reseller, and then to the commercial airline?

Mr. GRASSLEY. Yes, so long as the commercial airline fuel transaction takes place on one of the secure airports listed by the Treasury, then, that also is my understanding.

Mr. SMITH. Mr. President, with that understanding, I thank Chairman GRASSLEY for his assistance in this matter. It is important in order to avoid imposing unnecessary burdens on companies in Oregon and all across the country that provide aviation fuel.

Mr. LEVIN. Mr. President, the surface transportation reauthorization bill that was reported out of the Environment and Public Works committee increased Michigan's rate of return on all highway funds apportioned to States to 92 percent of our share of contributions to the highway account of the highway trust fund. However, a significant change in the funding formula was made through a substitute offered on the Senate floor which resulted in over $8 billion in apportioned highway funds being added to the bill to help certain States, including some donor States. The rate of return for all States on that $8 billion ranges from 37 percent to 550 percent. Under the substitute bill, Michigan receives the lowest rate of return of all States on the distribution of that new money. Only 12 States have a rate of return on this new money that is below 90 percent.

In recognition of Michigan's disproportionately low share of the new funding, the mangers gave assurances that corrective measures would be considered before the bill was passed by the Senate.

While a solution has not been identified yet, I would appreciate the assurances of the managers that in conference they will make every effort to address and correct this disproportionate treatment.

Mr. INHOFE. I understand and appreciate the Senator's concerns. While I cannot make any guarantees on a final outcome, I will continue to work to see if there is a way to address the critical needs of his State.

Mr. BAUCUS. I agree with the comments made by my colleague, the chairman of the Environment and Public Works Committee. I understand the concerns raised by the Senator from Michigan. I appreciate his leadership and knowledge of transportation issues and I will continue to work with him as this bill progresses.

HOUSEHOLD GOODS MOVERS

Mr. LOTT. Mr. President, I rise to discuss 2 amendments to the Commerce Committee's title of this bill addressing the regulation of the household goods moving industry. The Subcommittee on Surface Transportation and Merchant Marine, which I chair, developed a strong package to provide further protections to consumers that use movers to ship their belongings. Principally, our provisions are designed to address fraudulent and extortionary practices used by movers who take consumers' goods ''hostage'' and request exorbitant fees in exchange for releasing their worldly possessions.

Mr. INOUYE. These protections are needed because, while the Federal Motor Carrier Safety Administration, FMCSA, assumed the regulatory duties for the household goods moving industry previously entrusted to the Interstate Commerce Commission, inadequate Federal statutory protections and limited resources have meant that the interstate moving industry has essentially gone without oversight. FMCSA has received nearly 20,000 consumer complaints since January 2001, and yet until recently has had only one or two employees dedicated to household goods regulation and enforcement for the entire nation.

Mr. LOTT. Senators BOND and PRYOR have filed amendments to this section of the bill dealing with 2 important issues and I want to thank them for their hard work and interest in this topic. Senator INOUYE and I worked with Senator BOND to craft a version of his amendment which I have offered and we are prepared to accept Senator PRYOR's amendment with the understanding that we will continue to work together to perfect these provisions through the conference process with the House.

Mr. INOUYE. Yes, we understand that both Senators have a very strong interest in these provisions, and while I have concerns with the changes that

Senator BOND is proposing which I believe could significantly limit the authority of our State attorneys general in assisting the Federal Government in enforcing these new protections for moving company consumers, we are prepared to accept this language and make a commitment to work with both Senators to improve their provisions moving forward.

Mr. LOTT. Similarly, I know that Senator BOND has concerns with the language proposed by Senator PRYOR that defines who ''household goods carriers'' are, and therefore who is subject to the new consumer regulations we've proposed. In particular, the Senator is concerned that this definition could impact traditional moving companies' entry into new markets, such as the ''u-pack'' and ''pod'' moving and storage services being offered today which might not be covered by this definition. We understand these concerns and will continue to work with Senator BOND to ensure that we craft a fair and workable definition of a ''household goods carrier'' through the conference process.

Mr. BOND. I thank Senators LOTT and INOUYE for their commitments to address this issue in conference. I also raise my concerns with the amendment offered by Senator PRYOR to define the term ''household goods motor carrier.'' Definitions matter, and in this case, meeting the definition of a ''household goods carrier'' subjects the carrier to certain existing and new regulations that others who do not meet that definition do not have to provide. At the same time, I support excluding express delivery and parcel delivery carriers from the definition of ''household goods carrier.'' As currently drafted, however, I am concerned that the amendment would make it substantially more difficult for an established moving company to enter one of these new markets in which consumers are provided a trailer or container which they pack themselves and which the company then transports for them. The definition, as now offered by Senator PRYOR, would mean that an existing moving company would be subject to these new regulations while others who offer these services, but do not provide traditional moving services, would not be. As this bill moves to conference with the House, I am committed to working with the managers of this title to find a definition that is accurate and fair and that covers the universe of services that are being offered to consumers who are planning interstate moves of household goods.

Mr. PRYOR. I understand the Senator's concerns and the intent of my amendment is not to restrict competition or new entrants into the marketplace, but to ensure that we focus our resources on the problem as we now know it. I'll be glad to work with you to perfect this definition so that we can properly protect consumers while also ensuring a fair and open market place for the many different services now being offered.

Mr. BOND. I appreciate the Senator's commitment, and I also offer to work with you and Senator LOTT and INOUYE in conference on the amendment regarding procedures for allowing State attorneys general to pursue enforcement actions against interstate household goods movers in federal court. This amendment, which I have worked out with the managers and is being offered by Senator LOTT, establishes an approval process for actions taken by State attorneys general by the Secretary of Transportation before the AGs proceed in court. The amendment is critical because it establishes a responsible framework with a delineation of responsibilities to the States. The efforts of State governments should be focused on investigating and prosecuting those carriers that are too small or cases of fraud that are too isolated to cause a Federal response. At the same time, Federal agencies should be pursuing complaints of fraudulent activities by large and established carriers. By focusing our enforcement efforts along these lines, we will leverage our resources which will improve the effectiveness of the response to fraud and abuse in the household goods moving industry and ensure that no carrier slips through the cracks. The amendment also will ensure that State cases are legitimate and properly prepared. In addition, the amendment provides intervention and substitution authority for the Secretary if the Secretary believes that Federal Government would be in a better position to prosecute the case.

Mr. PRYOR. As a former State attorney general and the ranking member of the Commerce Committee's Consumer Affairs, Product Safety, and Insurance Subcommittee, I have significant concerns with this approach. I believe the amendment proposes a significant departure from precedent and establishes hurdles that could dissuade State attorneys general from proceeding with their cases, to the detriment of consumers. Allowing State attorneys general to enforce Federal laws and regulations with respect to the transportation of household goods in interstate commerce is perhaps the most important aspect of these provisions, since I believe that State attorneys general are much more likely than the Federal Government to doggedly pursue justice for their citizens in these cases.

Mr. INOUYE. I want to thank both Senators for their cooperation on these matters. Senator BOND raises a good point regarding the definition and we understand that this is a complex issue which will require further work by all involved.

Mr. LOTT. Senator PRYOR and Senator BOND, we understand your respective concerns and will work with you on these two issues as we hopefully proceed with his bill in Conference.

CLEAN TRUCKS

Mrs. BOXER. President, my amendment begins the process of putting all trucks operating in the United States, including those from Mexico, on an equal footing for emission standards with American trucks. Beginning in 2007, all trucks, including foreign trucks, operating in the U.S., will have to certify that they are meeting the performance emission standards of the Clean Air Act—the type of standards that American trucks have been required to meet for years. This provision will comply with our trade laws and help improve our air quality by assuring that foreign trucks are meeting our emissions protections. I thank the Senators from Mississippi and Hawaii for working with me on this amendment and for agreeing to accept it.

However, I believe it is only a start. I would have liked to include a provision requiring rebuilt engines to meet the standards in effect at the time the engines were manufactured. Such a provision would have covered more foreign trucks and ensured even cleaner air.

I understand the complications with including such a provision now, and I hope we can address this in Conference.

Mr. LOTT. I thank the Senator from California for her leadership. I understand what she was trying to do with regard to rebuilt engines. However, such a provision would require additional regulations from the Environmental Protection Agency, which is outside the jurisdiction of the Commerce Committee. With all committees at the table during conference, we can look at ways to address this issue.

Mr. INOUYE. I agree with the chairman, and I say to the Senator from California that you have my commitment to look into this issue as we hopefully proceed with this bill through conference. That will be the appropriate time to bring this additional matter to the table.

Mrs. BOXER. I appreciate your help on this issue, and I thank both Senators for agreeing to continue to address this issue.

PM–10 AND THE CMAQ APPORTIONMENT FORMULA

Mr. KYL. The legislation before us amends the apportionment formula for the Congestion Mitigation and Air Quality, CMAQ, program to include non-attainment and maintenance areas for fine particulate matter, so-called PM 2.5, and to make adjustments for the new 8-hour ozone standard. It does not amend the formula, however, to include non-attainment and maintenance areas for PM–10 particulate matter. Would the senior Senator from Oklahoma be willing to explore the question of whether the CMAQ apportionment formula should include factors for this Federal air quality standard as well?

Mr. INHOFE. I would.

Mr. KYL. I appreciate the Senator's openness to exploring that question. PM–10 is the greatest air quality problem facing Arizona. There are currently 8 PM–10 non-attainment areas in Arizona and the Phoenix metropolitan area is a serious non-attainment area for PM–10. Our CMAQ apportionment should reflect and help us address our

PM–10 air quality problem. Do I have the Senator's assurance that he and his colleagues are open to considering including PM–10 as part of the CMAQ apportionment formula?

Mr. INHOFE. I assure the Senator that I am willing to discuss with my fellow conferees the idea of including in the conference agreement on this legislation language adding PM–10 to the CMAQ apportionment formula.

Mr. KYL. I thank the Senator for his assurance and his consideration.

Mr. HATCH. Mr. President, I am pleased that Congress has worked in a bipartisan manner to pass a long overdue full transportation reauthorization, which has unfortunately been extended on a temporary basis six times and simply must be made permanent.

I congratulate Chairman INHOFE and Ranking Minority Member JEFFORDS for their tireless efforts in moving forward one of the largest bills Congress will consider this year. I am sensitive to the fact that the current spending extension expires at the end of this month. Clearing this legislation through a House-Senate conference before the May 31 deadline may be difficult, but I am hopeful we can move quickly. This is important because the bill will create approximately 47,500 jobs for every $1 billion in highway spending. This bill will also provide desperately needed funds for Utah roads and create jobs for many hard-working Utahns.

Transportation is an issue in which all Utahns have a stake. Without a doubt, transportation plays a central role in the State's ability and opportunity to prosper economically. As Utah's population continues to grow, its highways are becoming more congested, negatively affecting Utah's ability to compete economically, and ultimately decreasing the quality of life for many of us.

I am concerned that in 5 years, Utahns may be changing the term ''rush hour'' to ''rough 2 hours'' because of the heavy congestion on our freeways. The Utah Department of Transportation—UDOT—estimates that in 10 years, peak congestion along the Wasatch front will increase from 1 hour in the morning and in the evening to more than 3 hours. The effect congestion has had on our quality of life is undeniable.

Time after time I have visited with Utah officials who stress that our top priority must be transportation funding, because we simply do not have the money to meet the tremendous demands on our roads. Last year alone, the State of Utah received approximately $254 million in Federal transportation funding. In addition to the Federal funding received, the State of Utah spent over $520 million for transportation projects in 2004. Yet, UDOT maintains the state is unable to increase capacity or maintain existing infrastructure at this level of funding. Responding to Utah's serious transportation needs, I voted to increase total federal funding in the multi-year transportation bill by $11.2 billion, which would raise Utah's portion from the $269 million originally included in the bill to $282 million. Utah desperately needs these funds to fight congestion.

I am encouraged by the transportation projects planned for fiscal year 2006 for the State of Utah. This legislation may help us complete many transportation projects throughout Utah, including: new I–15 interchanges in Ogden, Layton and Provo; commuter rail service from Ogden to Provo and light-rail lines to the airport and South Jordan; highway projects on US–6 in Carbon County and State Road 92 in Utah County; a railroad overpass in Kaysville; and building the Northern Corridor in St. George.

This legislation also contains a provision that addresses an important competitive issue in the transportation sector. At my urging, Chairman INHOFE has agreed to include compromise language that allows qualified companies the opportunity to compete for Intelligent Transportation Infrastructure Program—ITIP—funding. I consider this a significant victory for small companies, and hope that House-Senate conferees will recognize the importance of providing a fair and level playing field for those wishing to access ITIP funds.

Our Nation's transportation infrastructure is in dire need of improvement. I believe this legislation not only addresses these critical needs, but it will create thousands of job opportunities, fight traffic congestion, and improve the safety of our roads and bridges.

As the bill moves to conference, it is my hope that we may come together with an adequately funded compromise. I pledge my efforts in this cause and hope my colleagues will do the same.

Mr. FRIST. Mr. President, we are about to vote on the highway bill. I believe we have a strong bill, a bipartisan bill.

I thank Senator INHOFE, Senator BOND, Senator GRASSLEY, Senator STEVENS, Senator LOTT, and Senator SHELBY for their hard work, dedication and leadership to get this bill passed. They have been instrumental to the process and deserve great credit.

I also thank my colleagues Senator JEFFORDS, Senator BAUCUS, Senator INOUYE, and Senator SARBANES for their willingness to work cooperatively on this critical legislation.

The highway bill is a result of a long, bipartisan process. It is based on more than 3 years of work, over a dozen hearings, testimony from more than 100 witnesses, and countless hours of negotiation. It is supported by a deep and broad coalition—from State and local highway authorities to national safety advocates.

And in a few moments, we will finally deliver to the American people legislation that will help build and improve our vast and sprawling infrastructure.

America is interlaced by nearly 4 million miles of roads and highways. The interstate highway system has often been called ''the greatest public works project in history.''

Our roads, ports and railroads are vital to America's economic success. We know this well in Tennessee where companies like Federal Express, U.S. Express, and Averitt Express are located.

Unfortunately, America's transportation infrastructure has deteriorated badly and our roads have become painfully overcrowded.

Just ask any American commuter. There is bumper-to-bumper traffic, not just during rush hour, but all day long. In our Nation's urban areas, traffic delays have more than tripled over the last 20 years in small and big cities across the country.

In my home State of Tennessee, traffic congestion has increased in all of our major metropolitan areas. Nashville commuters drive an average of 32 miles per person per day. Metropolitan planning organizations are struggling to meet demand.

Because of this congestion, Americans suffer more than 3.6 billion hours in delays, and waste 5.7 billion gallons of fuel, per year, sitting in traffic.

All the while creating more and more pollution. Cars caught in stop-and-go traffic emit far more pollution than cars on smoothly flowing roads.

The American Highway Users Alliance estimates that if we could free up America's worst bottlenecks, in 20 years, carbon dioxide emissions would drop by over three-fourths and Americans would save 40 billion gallons of fuel.

The legislation before use seeks to alleviate these problems in a number of ways.

In addition to improving our roads, the highway bill provides generous provisions to improve the buses and rail systems that make our urban centers thrive.

For Tennessee, this legislation will dramatically increase Federal highway and transit spending and support economic development throughout the State.

Tennessee, which is a donor State, will receive more than $800 million on average each year to invest in its highway infrastructure. This represents nearly $4 billion over the next 5 years.

The bill will also provide more than $296 million over the next 5 years to improve transit for our rural and urban commuters, an increase of 166 percent over the last highway reauthorization bill.

Tennessee's highways have consistently been ranked among the best and safest in the Nation, and these funds will help to reduce congestion, improve safety, and create thousands of new jobs.

Our transportation infrastructure is estimated to be worth $1.75 trillion. Every $1 billion we invest in transportation infrastructure generates more

than $2 billion in economic activity and 47,500 new jobs.

I look forward to passing this critical legislation.

We will need to work to resolve our differences with the House of Representatives so that we can send the President a bill that he can sign into law as quickly as possible. I am confident this can be done.

The highway bill is a roads bill. It is a jobs bill. It promises to help improve every American driver's quality of life.

I thank my colleagues in advance for, literally, keeping America moving forward.

Mrs. CLINTON. Mr. President, I would like to briefly describe my amendment No. 681, which includes modifications to section 1612 of the bill.

I want to thank Senator INHOFE for cosponsoring the amendment, and Senators BOND, JEFFORDS, and BAUCUS for working with me on this important issue and this amendment.

New air quality standards are driving a new round of air quality programs in many of our States. This is good for public health, and I strongly support these new standards. To meet these standards, I believe that new tools and strategies will be required.

I believe that one example of a new strategy that works was demonstrated in my State of New York. Despite making great strides in reducing emissions from a variety of sources, New York City has not yet been able to meet the air quality standards in the Clean Air Act. We are getting there, but it is a tough job, and there is more to do.

After the tragedy of September 11, it was clear that a large number of diesel-powered fleets and other diesel equipment would be operating around ground zero for many months. New York received emergency Federal funds to pay for those contractors. And, partly because they were being paid by Federal tax dollars, and partly because of New York's continuing struggle with air quality issues, diesel equipment operating at ground zero was required to be retrofitted with pollution control equipment, and some Federal funds were used to pay for the retrofits.

Communities across New York and the country face similar challenges, in that emissions from diesel equipment involved in highway construction projects can put a temporary—but significant—increase in emissions in communities struggling to meet air quality standards.

The amendment has three main provisions. First, it requires States to develop emission reduction strategies for fleets that are used in construction projects located in non-attainment and maintenance areas and are funded under this title. Second, it requires EPA to develop a non-binding guidance for the States to use in developing their emission reduction strategies. The guidance will include technical information on diesel retrofit technologies, suggestions on the methods for inclusion in the emission reductions strategies, and other information that Administrator of EPA, in consultation with the Secretary, determine to be appropriate. Third, it clarifies that States may use CMAQ funding to finance the deployment of diesel retrofit technology and other cost-effective solutions as part of the emission reduction strategies.

I first introduced this provision as an amendment during the debate on the transportation bill last year. That original provision was included in the bill reported by the Environment and Public Works Committee earlier this year. During committee consideration of the bill, it came to my attention that the Association of General Contractors had concerns with the amendment. I am pleased to say that the chairman and I have worked with them to accommodate their concerns, and the revised section 1612 that this amendment contains reflects those negotiations. The Association of General Contractors now supports this provision, and has agreed to actively support it during the conference. I will ask unanimous consent that their letter of support be placed in the RECORD following my remarks.

This amendment will also result in the cost-effective use of CMAQ funds. During the debate over the last reauthorization of the highway programs, Congress asked the Transportation Research Board of the National Academy of Sciences to assess the CMAQ programs. Specifically, Congress asked the board to report on whether CMAQ-funded projects are cost-effective relative to other strategies for reducing pollution and congestion.

The Transportation Board reported its results in a 2002 Special Report 264, the CMAQ Improvement Program, Assessing 10 Years of Experience. The report concluded that '' strategies directly targeting emission reduction have generally been more cost-effective than attempts under CMAQ to change travel behavior.'' It recommended reauthorization of the CMAQ Program with modifications to improve its cost-effectiveness and to enhance its performance in improving air quality. In addition, a recently completed report for the Emission Control Technology Association that builds on this report and other data reaches similar conclusions about the cost-effectiveness of diesel retrofits. I will also ask unanimous consent that this report be printed in the RECORD after my remarks.

This amendment achieves both goals. It improves CMAQ cost-effectiveness by authorizing states to use CMAQ to fund the deployment of diesel retrofits. These are new technologies that have been found by EPA, the Diesel Technologies Forum, and others to be very cost-effective relative to other CMAQ-funded projects to improve air quality.

The amendment will also enhance the performance of CMAQ in improving air quality by financing diesel retrofit technology that reduces emissions of fine particulate matter, the most serious airborne threat to human health today. This is a problem that everyone agrees is a top air pollution priority. It's why I feel so strongly about this amendment and have worked to fund the EPA's Clean School Bus USA program. Recognizing the seriousness of the problem, the administration has acted as well, promulgating the 2004 on-road heavy duty diesel regulations, the 2010 off-road diesel regulations, the Clean School Bus USA Program, the National Clean Diesel Campaign, and the newly-proposed Clean Diesel Initiative that is in the President's fiscal year 2006 budget proposal.

I am pleased that the Senate will adopt this amendment because I believe it will provide States with additional tools to achieve our Nation's air quality goals. Reducing diesel emissions from construction activities is often the most cost-effective way to improve air quality. This amendment will help make that happen do just that.

I want to again thank Senators INHOFE, BOND, JEFFORDS, and BAUCUS for working with me.

Mr. President, I now ask unanimous consent that the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 12, 2005.

Hon. JAMES M. INHOFE,
Chairman, Environment and Public Works Committee, U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR CLINTON: We appreciate your leadership for including the diesel engine retrofit provision (Section 1612) in the Senate's highway transportation bill (S. 732). This provision is important to both the construction and the mobile source emission control technology industries that we represent.

At your urging, the Associated General Contractors of America (''AGC'') and the Emissions Control Technology Association (''ECTA'') have been working together to develop ideas for improving on Section 1612 so that it better conforms to the current marketplace. The amendment that you filed today to rewrite a portion of section 1612 reflects the principles that we have jointly developed, and we believe it is a substantial improvement over the underlying provision. Your new proposal will better accomplish the original goals of the legislation—to reduce pollution by spurring more cost-effective use of funds from the Congestion Mitigation and Air Quality Improvement Program.

Both organizations strongly support your amendment and urge that it be adopted during Senate consideration of the highway bill. Should the Senate adopt the amendment as we hope, our organizations are both committed to working with the conferees to ensure that it is retained in the conference report.

We appreciate your leadership on this important issue, and look forward to working

closely with you to ensure that this important provision is included in the highway bill that is sent to the President.

Regards,

JEFFREY D. SHOAF,
Senior Executive Director, Government and Public Affairs, The Associated General Contractors of America.

TIMOTHY J. REGAN,
President, Emissions Control Technology Association.

CLEANING THE AIR: COMPARING THE COST EFFECTIVENESS OF DIESEL RETROFITS VS. CURRENT CMAQ PROJECTS

AN ANALYSIS PREPARED FOR THE EMISSION CONTROL TECHNOLOGY ASSOCIATION

(By Robert F. Wescott)

EXECUTIVE SUMMARY

A key goal of U.S. air pollution programs, including the Congestion Mitigation and Air Quality (CMAQ) program created in 1990, has been to clean the air in cities to improve public health and lower medical costs. But while the CMAQ program has emphasized reductions of carbon monoxide, hydrocarbons, and ozone, recent research finds that the top air pollution problem in urban areas today is fine particulate matter, which is particles with a diameter of 2.5 micrometers or less ($PM_{2.5}$).

This pollutant, $PM_{2.5}$, is a primary airborne threat to human health today costing more than $100,000 per ton in health costs. Researchers estimate that $PM_{2.5}$ is two to twenty times as harmful to human health as nitrous oxide, more than one hundred times as dangerous as ozone, and 2000 times as dangerous as carbon monoxide on a per ton basis.

Diesel engine exhaust is a source of $PM_{2.5}$ emissions in urban areas. Approximately one third of these diesel emissions are due to on-road vehicles and about two thirds are due to off-road equipment, such as construction equipment.

Diesel retrofit technology is currently available that is highly effective at reducing $PM_{2.5}$ emissions. Diesel oxidation catalysts (DOCs) are well suited for retrofitting older off-road vehicles and diesel particulate filters (DPFs) are highly efficient at reducing these pollutants where new low sulfur diesel fuels are available, as is already the case in most urban areas.

From the point of view of cost effectiveness, diesel retrofits are superior to almost all current CMAQ strategies, including ride-share programs, van-pool arrangements, HOV lanes, traffic signalization, bike paths, and all strategies that attempt to modify behavior (like encouraging telecommuting.) Most of these CMAQ strategies cost $20,000 to $100,000 per ton equivalent of pollutant removed, and some cost as much as $250,000 per ton removed.

Under conservative assumptions, diesel retrofits cost only $5,340 per ton equivalent of pollutant removed, In fact, among all CMAQ strategies, only emission inspection programs appear to exceed the cost effectiveness of diesel retrofits.

Expanding the range of CMAQ projects to include diesel retrofits for construction equipment and off-road machinery in urban areas could be a highly effective way to spend public monies. More than 100 million Americans live in areas of the country where $PM_{2.5}$ levels exceed the EPA's guidelines.

BACKGROUND

Cleaning the air to improve human health and lower medical costs has been an objective of U.S. government policy since at least the Clean Air Act of 1970. Concerns about poor air quality, especially in urban areas, led to the creation of the Congestion Mitigation and Air Quality (CMAQ) Program in 1990, which has set aside a portion of transportation monies for the past 15 years to fund innovative projects to reduce carbon monoxide, hydrocarbons, nitrous oxides, and smog in so-called non-attainment areas. Vehicle emission inspection programs, high-occupancy vehicle (HOV) travel lanes, van pool programs, park-and-ride lots, and bike paths are examples of CMAQ projects.

There has been significant progress in the past 35 years in reducing carbon monoxide and hydrocarbon emissions and smog. Scientists, however, have been able to identify new airborne health risks whose costs are now becoming more fully appreciated. Notably, particulate matter (PM) has been found to have especially pernicious health effects in urban areas. Increasingly it is becoming understood that diesel engine emissions in urban areas, both from on-road trucks and buses and from off-road construction and other equipment, are a significant source of fine particulate matter pollution. This leads to a number of questions:

What is the current assessment of the top health risks from air pollution from mobile sources in urban areas?

What is the role of emissions from diesel engines?

How does diesel retrofit technology to clean engine emissions after combustion compare with current CMAQ projects in terms of cost effectiveness?

Are CMAQ funds currently being deployed in the most cost effective manner possible?

This paper examines these questions by reviewing the recent scientific, environmental, economic, and health policy literature.

THE HEALTH COSTS OF AIR POLLUTION

In the 1960s and 1970s they key health risks from air pollution were deemed to come from carbon monoxide, hydrocarbons (or volatile organic compounds, VOCs), nitrous oxides (NO_X), and smog, and early clean air legislation naturally targeted these pollutants. During the past ten years or so, however, researchers have identified new pollutants from mobile sources that have particularly harmful health effects, especially in urban areas. Top concern today centers around particulate matter, and especially on fine particulate matter. Fine particulates, with a diameter of less than 2.5 micrometers ($PM_{2.5}$), can get trapped in the lungs and can cause a variety of respiratory ailments similar to those caused by coal dust in coal miners. A significant portion of $PM_{2.5}$ emissions in urban areas come from off-road diesel equipment. According to analysis by the California Air Resources Board, on-road engines account for about 27% of PM emissions in California and off-road equipment is responsible for about 60% of PM emissions.

Analysis by Donald McCubbin and Mark Delucchi published in the Journal of Transport Economics and Policy evaluates the health costs of a kilogram of various air pollutants, including CO, NO_X $PM_{2.5}$, sulfur oxides (SO_X), and VOCs. These researchers estimate health costs from such factors as, hospitalization, chronic illness, asthma attacks, and loss work days for the U.S. as a whole, for urban areas, and for the Los Angeles basin. For urban areas, they find the range of health costs per kilogram of CO was from $0.01 to $0.10, NO_X was from $1.59 to $23.34, $PM_{2.5}$ was from $14.81 to $225.36, SO_X was from $9.62 to $90.94, and VOCs was from $0.13 to $1.45. Taking the mid-points of these estimates, a kilogram of $PM_{2.5}$ therefore was nearly 10 times more costly from a health point of view than a kilogram of NO_X, more than 150 times more costly than a kilogram of VOCs, and more than 2000 times more costly than a kilogram of CO. On a per ton basis, a ton of $PM_{2.5}$ causes $109,000 of health costs, a ton of NO_X costs $11,332, a ton of VOCs costs $718, and a ton of CO costs $50.

EFFECTIVENESS OF DIESEL RETROFIT FILTERS

Given the high health costs of $PM_{2.5}$, significant effort has gone into the development of technological solutions to deal with the problem. The best technologies involve the use of post-combustion filters with a catalyzing agent, which together trap and break down dangerous pollutants before they are emitted into the air. All new diesel trucks will be required to use these technologies by 2007 according to U.S. EPA rules, and off-road equipment will have to use these technologies by 2010. (Rules require 95% reductions in emissions of several pollutants, as well as a 97% cut in the sulfur levels in diesel fuel.) However, given that the lifespan of a diesel engine can be 20–30 years, it will take decades to completely turn over America's diesel fleet. Therefore, by lowering emissions from older diesels, retrofits are an effective path to cleaner air over the next few decades.

Diesel retrofit filters are highly effective at their chief function: preventing dangerous pollutants from ever entering the air. Diesel oxidation catalysts (DOCs), at $1,000 to $1,200 per retrofit, reduce PM by about 30% and can work with current higher sulfur diesel fuels. This yields a large benefit when installed on older, higher-polluting vehicles. In addition to the PM reducing capabilities, these filters can also cut the emission of carbon monoxide and volatile hydrocarbons by more than 70%.

Diesel particulate filters (DPFs), which generally cost $4,000–$7,000 per engine, are far more efficient. They are specifically targeted at keeping more dangerous PM out of the air than DOCs. In fact, they can reduce $PM_{2.5}$ pollution from each vehicle by more than 90%, yielding an enormous cut in emissions over the life of the diesel engine, even when installed on newer, cleaner diesel vehicles. An additional requirement of DPFs, however, is that the vehicle must run on newer very low sulfur fuels. High sulfur fuel leads to sulfate emissions from the filter due to the very active catalysts needed to make the filters function properly. Thus, DPFs are most effective as a solution for vehicles in urban areas—such as construction equipment and urban fleets—where very low sulfur fuels are already available.

These technologies are not new or experimental; they are already in use around the world. There are 2 million of these technologies already at work in heavy-duty diesel vehicles worldwide. Further, there are 36 million DOCs and 2 million DPFs in use on passenger vehicles in Europe alone, where these technologies are currently being used, reaping cost-effective health benefits over the long term.

THE CMAQ PROGRAM

The CMAQ program is the only federally funded transportation program chiefly aimed at reducing air pollution. Its historical purpose has been twofold: to reduce traffic congestion and to fund programs that clean up the air Americans breath. Within its air quality mission, it is designed primarily to help non-attainment areas (mainly polluted urban zones) reach attainment for air quality standards under the Clean Air Act. Historically many CMAQ projects have tried to change travel and traffic behavior in order to achieve its goals. These transportation control measures (TCMs) have been designed both to reduce traffic congestion as well as improve air quality. An example is a bicycle path. Designed to reduce the number of drivers on the road, bike paths could, in theory,

achieve both goals. Further examples are vanpools, ridesharing and park and ride programs, and HOV lanes: all current CMAQ projects. Other projects have addressed emission reductions directly, as for example, through funding for state automobile emission inspection programs.

As a condition for reauthorizing the CMAQ program in 1998, the U.S. Congress required that a detailed 10-year assessment of the program be conducted. This review was performed by the Transportation Research Board of the National Research Council and was completed in 2002. This review found that CMAQ has been less than successful in reducing congestion and suggested that the most beneficial way for CMAQ to use its funds is to focus on air quality. It also found that TCMs were less cost effective than measures to directly reduce emissions, such as through inspection programs.

Furthermore, the study suggested that CMAQ's focus within the domain of air quality is misplaced. CMAQ programs have targeted the gases considered the most dangerous pollutants for many years, like hydrocarbons, carbon monoxide, and nitrous oxides. While these gases pose recognized health and environmental risks, recent work has shown that the dangers of these substances pale in comparison to the danger of fine particulate matter. In the words of the study, ''Much remains to be done to reduce diesel emissions, especially particulates, and this could well become a more important focus area for the CMAQ program.'' Further, discussing the fact that diesel-related CMAQ programs could be the most cost-effective, the study states, ''had data been available on particulate reductions . . . the ranking of strategies focused on particulate emissions . . . would likely have shown more promising cost-effectiveness results.''

COMPARING THE COST EFFECTIVENESS OF DIESEL RETROFITS WITH OTHER CMAQ PROJECTS

Given that $PM_{2.5}$ emissions from diesel engines are a leading health concern, that effective technology exists today to clean the emissions of off-road diesel equipment used extensively in the middle of American cities (non-attainment areas), and that the CMAQ 10-year review highlights the possible use of CMAQ funds for diesel retrofit projects, it is logical to compare the cost effectiveness of these diesel retrofits with current CMAQ projects. The CMAQ Program: Assessing 10 Years Experience (2002) estimates the median cost per ton of pollutant removed for 19 different CMAQ strategies and these estimates provide the comparison base. Published estimates for diesel retrofits are compared with these estimates.

As a first step in comparing the cost effectiveness of pollution reduction strategies, it must be noted that the CMAQ cost effectiveness estimates are presented as ''cost per ton equivalent removed from air,'' with weights of 1 for VOCs, 4 for NO_X, but 0 for $PM_{2.5}$. Relying upon the McCubbin and Delucchi health cost estimates, however, even weighted NO_X should be considered more damaging than VOCs. That is, even though 0.25 ton (the 1:4 ratio above) of NO_X removed counts as the CMAQ equivalent of one ton of pollution removed, it has a higher health cost than a ton of VOCs ($11,332 / 4 = $2,883 for NO_X vs. $718 for VOCs). As a second step, conservatively assume that all CMAQ projects remove the more damaging pollutant (NO_X). This still means that a ton of $PM_{2.5}$ reduction would be worth at least 9.45 tons of regular CMAQ reductions ($109,000 for $PM_{2.5}$ / $11,332 for NO_X).

Diesel retrofits are estimated to cost $50,460 per ton of $PM_{2.5}$ removed by the California Air Resources Board (CARB). This estimate is very conservative and substantially higher than that cited by industry sources. Using the CARB cost estimate, diesel retrofits cost $5,340 per ton equivalent of air pollution removed ($50,460/9.45), based upon the CMAQ definition of ton equivalent and on the conservative assumption that CMAQ projects remove the most damaging pollutant reviewed. If a less conservative and more realistic assumption is used—that CMAQ projects remove a mix of NO_X and VOCs—then the cost-effectiveness of diesel retrofits becomes substantially more favorable, and could be as low as $332 per ton of CMAQ pollutant removed.

This analysis means that diesel retrofits for construction equipment are highly cost effective when compared with current CMAQ strategies. As shown in Table 1 and Chart 2, some CMAQ strategies cost more than $250,000 per ton of pollutant removed (teleworking), and many are in the $20,000 to $100,000 per ton range (traffic signalization, park and ride lots, bike paths, new vehicles, etc.). The only current CMAQ project category that exceeds the cost effectiveness of diesel retrofits is emission inspection programs.

Other studies also conclude that diesel retrofits are highly cost effective compared with current CMAQ projects. The Diesel Technology Forum compared the benefits and costs of CMAQ projects with diesel retrofits for transit buses (for NO_X pollution reduction) and concluded that retrofits are a better use for CMAQ funds than any other typical CMAQ project, with the exception of inspection and maintenance programs and speed limit enforcement. Also, the California EPA's Air Resources Board has estimated that diesel retrofits have a benefit of between $10 and $20 for each $1 of cost. And the U.S. EPA, in its justification for new on-road diesel rules in 2007 and off-road rules in 2010 estimates the benefits for diesel particulate filters at roughly $24 for each $1 of cost.

TABLE 1.—COST-EFFECTIVENESS OF CURRENT CMAQ STRATEGIES AND DIESEL RETROFITS

[Median cost per ton equivalent of air pollution removed]

	Median cost	Rank
Inspection and maintenance	$1,900	1
Diesel retrofits	5,340	2
Regional rideshares	7,400	3
Charges and fees	10,300	4
Van pool programs	10,500	5
Misc. travel demand management	12,500	6
Conventional fuel bus replacement	16,100	7
Alternative fuel vehicles	17,800	8
Traffic signalization	20,100	9
Employer trip reduction	22,700	10
Conventional service upgrades	24,600	11
Park and ride lots	43,000	12
Modal subsidies and vouchers	46,600	13
New transit capital systems/vehicles	66,400	14
Bike/pedestrian	84,100	15
Shuttles/feeders/paratransit	87,500	16
Freeway management	102,400	17
Alternative fuel buses	126,400	18
HOV facilities	176,200	19
Telework	251,800	20

Source: All costs from The CMAQ Improvement Program: Assessing 10 Years of Experience, (2002), except diesel retrofit costs, which are from author's calculations.

CONCLUSIONS

The top air pollution problem in U.S. urban areas today is almost certainly $PM_{2.5}$, which is estimated to cost more than $100,000 per ton in health costs. A major source of $PM_{2.5}$ emissions in urban areas is diesel engine exhaust. Approximately one third of these diesel emissions are due to on-road vehicles and about two thirds are due to off-road equipment. Off-road equipment in urban areas is a particular problem, because it gives off exhaust at ground level, frequently near large groups of people.

Diesel retrofit technology is currently available that is highly effective at reducing $PM_{2.5}$ emissions. DOCs are well suited for retrofitting older off-road vehicles and DPFs are highly efficient at reducing these pollutants where new low sulfur diesel fuels are available, as is already the case in most urban areas.

From a cost effectiveness point of view, diesel retrofits are superior to almost all current CMAQ strategies, including rideshare programs, van-pool arrangements, HOV lanes, traffic signalization, bike paths, and all strategies that attempt to modify behavior (like encouraging teleworking.) Only emission inspection programs exceed the cost effectiveness of diesel retrofits based upon conservative assumptions. Expanding the range of CMAQ projects to include diesel retrofits for construction equipment and off-road machinery in urban areas could be a highly effective way to spend public monies.

Mr. CORZINE. Mr. President, I rise today to discuss the transportation reauthorization legislation that is pending before the Senate, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 or SAFETEA. I commend the managers of this bill, Senators INHOFE and JEFFORDS for producing bipartisan legislation that will help address the safety and congestion needs on our Nation's roads, rails and bridges. I thank the managers for their hard work.

Under SAFETEA, New Jersey will see a 56 percent increase in mass transit formula funds from fiscal year 2005 to fiscal year 2009. It will also see an increase its return on the highway dollar from the current 90.5 cents on the dollar, which is the absolute minimum, to 92 cents on the dollar.

This money is sorely needed. New Jersey is the most densely populated State in the Nation. This is causing gridlock on our roads. According to the latest study by the New Jersey Institute of Technology, the average New Jersey driver now spends 45 hours a year stuck in traffic. I repeat, 45 hours a year. All this time spent behind the wheel does more than hurt New Jersey's quality of life. It also costs us an average of $1,255 per driver in wasted gasoline and lost productivity—for a total cost of $7.3 billion a year. That is a huge blow to New Jersey's economy.

I have spent 25 years of my life commuting from northern New Jersey into New York City. I have seen firsthand how tough the commute is getting. People are getting caught in gridlock on roads and bridges that are overcrowded and in need of repair. According to the New Jersey Department of Transportation, to fix New Jersey's 13 most seriously deteriorating bridges will cost $2.03 billion. And we are facing $1 billion in pavement and surfacing needs for our highways alone.

New Jersey is the most densely populated State. We need a greater share of funding to repair our roads and bridges. Thanks to the leadership of Senator INHOFE and Senator JEFFORDS, we will begin to see some of that funding under SAFETEA.

However, I must say that I was disappointed when the Senate last week refused to pass the amendment Senator LAUTENBERG and I offered on protecting States from corruption in transportation contracting, a practice commonly known as ''pay-to-play''. I

believe that this was due in large part to false statements that were made by certain groups and repeated on the floor of the Senate. I would like to take a moment to address both these comments and the continuing need for this measure.

The criticisms fall into three areas: First, that this measure was not needed to ensure fair and open competition for highway and mass transit contracts. Second, that Senator LAUTENBERG and I were trying to impose New Jersey's pay-to-play law on the rest of the Nation. The third criticism was that New Jersey did not need a change in Federal law in order for its own pay-to-play measures to be implemented. All of these points are wrong and I will address each in turn.

The first criticism was that our amendment was unnecessary. The U.S. Chamber of Commerce and certain members of the Senate argued that competitive bidding rules already guarantee fair treatment for all contractors, without any favoritism. That is not true. Governments can and do enact unfair conditions to restrict who may bid. Sometimes those conditions can be subtle, such as requiring a certain size for a company that receives a contract. Sometimes they can be more overt, such as overly burdensome licensing requirements. As a result, the playing field is hardly level for those who would like to compete for contracts.

The second criticism was that Senator LAUTENBERG and I were trying to create a national pay-to-play rule that would apply to every State in the country. That is also not true. We were not establishing a Federal pay-to-play rule in Federal highway contracting. We were merely asking the Senate to respect the rights of states to establish and maintain their own *state* contracting practices. Further, this only impacts contributions to state level candidates. Federal campaign finance laws are in no way affected.

Finally, opponents argued that New Jersey does not need a Federal fix for its pay-to-play problems. That is not true as well. New Jersey enacted a statute that limits contributions from a corporation or individual who does business with the state to no more than $300. While this is a valuable tool in ensuring that contracts are awarded solely on the basis of merit, a gaping loophole exists due to the fact that the U.S. Department of Transportation will not allow this law to apply to highway and mass transit contracts that use Federal funds. As a result, New Jersey faces a situation where nearly $900 million in the contracts for Federal highway and mass transit projects that it awards annually are susceptible to corruption. This is a ''corruption tax'' that New Jersey's citizens must continue to pay, thanks to the Senate's actions last week.

A number of States and cities have enacted pay-to-play statutes that are similar to New Jersey's. This includes South Carolina, Kentucky, Ohio, West Virginia, and New Jersey, and now Hawaii. In addition, pay-to-play measures have been enacted in the cities of Los Angeles, San Francisco, Oakland, Chicago, and 24 local jurisdictions in New Jersey. Pay-to-Play bills are also pending in Illinois, Connecticut, and New York City. Let me be clear, the Senate's actions have put all of these laws in jeopardy.

It is time for the Senate to ensure that both highway and mass transit contracts can be awarded without the taint of government corruption. We owe the taxpayers nothing less.

Mr. PRYOR. Mr. President, I want to talk briefly about an amendment to this bill that I cosponsored with Senators HUTCHISON and BEN NELSON.

The amendment repealed, for the most part, an unpopular provision that was included in TEA–21 that has never been utilized: the Interstate System Reconstruction and Rehabilitation Pilot Program. It is also known as the Interstate Tolling Program.

I understand the desire to find new ways to finance our ever-growing transportation needs. Our roads and bridges are deteriorating; our freight, truck, and passenger traffic is increasing. According to the American Association of State Highway and Transportation Officials, we need an annual investment by all levels of government of $92 billion a year just to maintain the current system. To improve it, we need $125.6 billion a year. This bill addresses only a fraction of those needs, but the increased funding compared to levels contained in TEA–21 is a positive step.

I think we can do better, and I think we have a duty to do better. If we can find ways to provide more money for infrastructure without increasing our Nation's deficit, I believe we should do it. I have voted in the past to increase the level of funding in this bill because I believe it is warranted, it is reasonable, and it is the responsible thing to do.

I applaud efforts to try to find new and innovative ways to finance new road building.

The bill creates a new commission to explore alternative sources of revenue for transportation. I think that is a good idea.

However, I cannot agree that it is a good idea to put tolls on interstate highways that have already been paid for with Federal gas tax dollars. That is what the Interstate System Reconstruction and Rehabilitation Program does.

This pilot program allows tolling of existing lanes on the Interstate Highway. I think that is bad policy, and that is why I have joined Senator HUTCHISON, and Senator NELSON in sponsoring an amendment to strip this program from this reauthorization bill.

My amendment does not affect States' ability to finance new interstate construction using tolls. It does not affect States' ability to convert HOV lanes to High Occupancy Toll—HOT—add new voluntary use tolled lanes to their Interstates, or toll non-Interstate roads.

The amendment only prevents tolling on existing interstate lanes, which have already been paid for once by federal gas taxes.

I see this as an issue of double taxation.

We are talking about interstate highways that were built using Federal gas tax money. There are those who want to tax the use of these same roads that have already been paid for.

I understand the desire to find new ways to finance road building. In Arkansas, our State leaders have chosen to increase the State gas tax throughout the years in order to meet its road construction needs.

In fact, Arkansas is in the top half of State gas taxes. Arkansas has acted responsibly, and now there is an effort to institute tolls on existing interstate highways because some States don't want to raise their gas taxes. They would rather tax through tolling:) I think that is unfair.

This is an issue that affects poor, rural residents who have limited transportation options the most. Over the past few years, EAS and Small Community Air Service funding has been cut to many rural communities, including those in my State of Arkansas. AMTRAK is in financial turmoil, and over the road buses such as Greyhound have dramatically cut service.

Tolls on existing roads, which have already been financed and paid for by federal gas taxes increase the burden on these people. Again, I think it is simply unfair. Not only am I concerned about the double taxation issue, but I believe this is a safety Issue.

Tolls on existing Interstates will produce substantial diversion of traffic to other roads. I believe greater volume of truck traffic on local roads is not something we should encourage by placing tolls on the interstates.

There is also an economic downside to tolling the interstate. Businesses along newly tolled roads which rely on highway travelers—such as truck stops, motels and restaurants—will be hurt economically if significant traffic avoids the toll road.

The bottom line is that I believe allowing tolls on interstate highways that have already been paid for by Federal gas taxes is bad tax policy, is unsafe, and could have very detrimental economic effects. I am hopeful that you will agree with me that tolling existing interstate lanes is a bad idea, and will support our amendment.

Mr. WARNER. Mr. President, I rise today with renewed hope and confidence that this Congress can pass a surface transportation reauthorization bill. As it has been stated before, we have been operating under continuing resolutions—six of them—to keep the Department of Transportation's highway, transit, and highway safety programs running. We have been operating

for 2 years on expired legislation and we are far past due on our commitment to the American people to deliver an updated policy and expanded funding.

Last year both the Senate and House passed bills and the conference committee met for months before we were forced to abandon hopes of completing a conference report as a result of the much discussed disagreement over the size of the bill. This year we will still have a disagreement over the size of the bill but I am optimistic that with the narrowed gap, we will be able to resolve the differences quickly and amicably. I am pleased the Senate will adopt a bill funded at $295 billion and am hopeful that this funding level can be retained in conference. Our transportation system is bursting at the seams and the Congress must adequately fund this bill to address this myriad of needs. Almost 30 percent of ou Nation's bridges are structurally deficient. Thirty two percent of our major roads are in poor or mediocre condition. Our urban centers and suburban communities need expanded and updated transit infrastructure. Americans spend 3.7 billion hours each year in congested traffic. Our State highway departments are forced to cancel or delay projects as costs continue to rise while the revenue does not come.

In addition, we have a responsibility to make our transportation system safer for the traveling public. The President recognizes this and has appropriately named his proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, SAFETEA. Throughout my career in the Senate I have worked with many of my colleagues to address critical safety measures on our Nation's highways. The most effective way to increase safety on our roads is to get people to wear their seat belts. I am a firm believer that the individual States must pass primary safety belt laws. The statistics are clear. More than 50 percent of the fatalities on our highways are individuals who were not wearing their safety belts. My hope is that the incentive grants included in this bill will prompt states to take actions to cut into the tens of thousands of deaths on our roadways each year.

The Committee substitute will increase funding in the bill from $284 billion as passed by the Environment and Public Works and Finance Committees to $295 billion. This means an additional $247.7 million for my home State of Virginia for a total of $4.7 billion in highway construction over the next 5 years. This represents more than a 32 percent increase over the highway funding in TEA–21. The Virginia Department of Transportation will now be able to restore many projects that had been cut from our transportation plan because of the lack of revenue. We have made small steps in the right direction to address donor States, increasing the rate of return to 92 percent by 2009.

We will also increase funding for transit programs across the country. While this has traditionally only meant our urban centers, transit has evolved to enable Americans in suburban and even rural areas of our States increased mobility on subways, buses, light rail, commuter railroads, ferries, and vans. More than 80 million Americans do not drive or have access to a car and this robust investment in our transit systems helps not only those Americans but also helps relieve congestion on our Nation's roads.

I wish to thank the chairmen and ranking members of the committees and subcommittees working so diligently on this bill. They and their staffs have been working together for several years toward the ultimate goal and today we take one step closer to that end. Chairman INHOFE, Subcommittee Chairman BOND, Ranking Member JEFFORDS, and Subcommittee Ranking Member BAUCUS have worked openly with the EPW Committee and every Senator in this body to address our concerns and their work is very much appreciated by this Senator. They have worked well with the Finance, Commerce, and Banking Committees to bring this bill together. I know how difficult this bill is to manage and it is my sincere hope that the conference committee will soon be able to resolve differences between the House and Senate bills and send a strong bill to the President. The bill we vote on today increases the revenue for our state highway departments, enhances the safety of our roadways, will help states address environmental pollution from our roadways, and will reduce the congestion millions of Americans deal with each day to help keep our Nation the strongest economy in the world.

Mr. KOHL. Mr. President I would like to explain my vote today against this important legislation, the highway reauthorization bill. I want to explain that my vote was against the unfair treatment of my State, and not a 5-year reauthorization bill. I support consistent and adequate funding of our transportation infrastructure) but I do not support a bill that cuts Wisconsin's rate of return unfairly.

A safe and efficient transportation system is critically important to my State. In Wisconsin, the changing seasons require constant maintenance of our roads and bridges. In addition, we have an aging fleet of buses that are in dire need of replacement. A five-year reauthorization is necessary for sustained transportation planning; it will provide jobs, will ensure safer travel on our highways and roads, and will provide transit funding for millions of commuters. I have heard from the people of Wisconsin, and I know they support a 5-year authorization bill.

I share their sentiments on the need for an authorization bill. I also share their sentiments on the bill the Senate passed today. I have spoken to engineers, bus drivers, road builders and businesses throughout my state and the message is the same—don't support legislation that would drop Wisconsin's rate of return. My support for this legislation would undermine Wisconsin taxpayers who deserve better than 92 cents on the dollar. A vote in favor of this legislation would set a dangerous precedent for treating Wisconsin unfairly.

I recognize the arguments of my colleagues that the overall funding for Wisconsin will increase and I support the addition of $11.2 billion that the substitute amendment contains. The substitute amendment provides Wisconsin with an additional $147 million in highway funding over the five year life of the bill. These dollars are absolutely necessary in the State, and I urge the conferees to maintain the Senate level of funding.

What the substitute amendment does not do, however, is greatly change my State's rate of return. Over the life of the bill, Wisconsin will still drop from an average of $1.02 to an average of 96 cents on every dollar the taxpayers send to Washington. The so-called equity bonus program included in the bill is far from equitable. It includes exemptions based on random criteria; it is a formula stitched together to appease the highest number of Senators possible, not to give each State its fair rate of return.

I remain hopeful that Congress will pass a bill much different than the one the Senate votes on today. I hope that my colleagues will, in conference, repair the damage that is done to Wisconsin under the Senate bill. I hope the final bill gives Wisconsin its fair share. Given the great need for a 5 year authorization bill, I would like to support this legislation. Given its treatment of Wisconsin, I cannot. I hope that will be different when the Senate considers a final bill.

Mr. SARBANES. Mr. President, it is critically important that we move forward with this reauthorization of the Nation's highway and transit programs. Although the funding levels contained in this measure are lower than many of us believe are warranted or necessary to address our pressing transportation infrastructure needs, given the budget constraints within which we had to work, I think we have responded with a reasoned and balanced package that will maintain and enhance our transit, rail and highway systems.

There is a huge backlog of needed repairs, replacements, and upgrades to bring our transportation network—our roads, bridges, transit systems and railroads—up to standards. The Department of Transportation's Conditions and Performance Report estimates that an average of $127 billion per year is needed over the next two decades to maintain and improve the condition of these systems. Other estimates show an even greater need. This backlog constrains our Nation's economic competitiveness, leaves more and more Americans stuck in traffic, contributes to air pollution and results in unnecessary fatalities.

Just last week, the Texas Transportation Institute released its annual ''Urban Mobility Report,'' which measures traffic congestion in the Nation's 85 largest cities. The report found that congestion across the country delayed travelers by 3.7 billion hours and wasted 2.3 billion gallons of gasoline in 2003. That is nearly 80 million more hours and 70 million more gallons of fuel in 2003 than in 2002. Average hours spent in rush hour traffic jams jumped from 16 in 1982 to 47 in 2003. The Washington Metropolitan area continues to suffer the third-worst traffic congestion in the country, costing area drivers an estimated $2.46 billion in lost time, fuel and productivity, or $577 per commuter. Equally important, the study found that this area would have the worst congestion in the country if not for our public transportation systems. As these figures show, congestion has a real economic cost, in addition to the psychological and social costs of spending hours each day sitting in traffic. We cannot afford to let these costs of congestion grow any further.

In my judgment, the report underscores the need to bolster investment in our transportation infrastructure and to put in place a sensible, balanced transportation network. Over the past 2 years, we have been working hard in the Congress to do just that: to reauthorize the Nation's surface transportation program, and to bring our transportation network up to standards. Last year, the Senate approved a measure authorizing $318 billion in funding over the next six years—an increase of $100 billion over the previous measure—which, in my view, provided the kind of investment needed to not only prevent further deterioration of our transportation network, but to improve the system, relieve congestion and save lives. Unfortunately, SAFETEA did not emerge from conference due in large part to the unwillingness of the administration and the House leadership to support that level of investment. As a result, we have had to pass six short-term extensions of the previous transportation legislation, TEA–21. The uncertainty inherent in these short-term extensions hinders our State and local partners in their efforts to meet the daily challenges of maintaining our transportation infrastructure and planning for improvements.

The measure that is before the Senate this year provides $295 billion over the next 6 years in highway and transit funding. That is $11 billion more than the level recently approved by the House and $39 billion more than was originally recommended in the President's reauthorization proposal. For our Nation's roadways and bridges, this legislation authorizes an average increase of nearly 31 percent in funding to enable States and localities to make desperately needed repairs and improvements. Maryland's share of highway funding will grow by more than $820 million over the next 6 years, from $2.66 billion to $3.49 billion, compared to the level provided in TEA–21, to help upgrade our highway infrastructure. This represents an average of more than $142 million more each year than was provided under TEA–21.

In the next two decades, Maryland's driving age population is expected to increase by nearly 20 percent, the number of licensed drivers by 25 percent, and the number of registered vehicles by nearly 30 percent—and this will mean significantly more traffic on our roads and pressures on our transit systems. Maryland's Department of Transportation is facing deficient roads and bridges as well as key gaps and bottlenecks within the State's transportation system that are known to cause delay and congestion. Maryland has an estimated unfunded capital need for more than $13 billion in highway maintenance, construction and reconstruction over the next ten years. Clearly, Maryland must have adequate funding to address these transportation challenges and to facilitate overall mobility—and the funds made available under this measure will be a significant help in this regard.

Importantly, the measure preserves the dedicated funding for the Congestion Mitigation and Air Quality—CMAQ—program which helps States and local governments improve air quality in nonattainment areas under the Clean Air Act; the Transportation Enhancement set-aside provisions which support bicycle and pedestrian facilities and other community based projects, as well as the other core TEA–21 programs—Interstate maintenance, National Highway System, Bridge and the Surface Transportation Program. Likewise, TEA–21's basic principles of flexibility, intermodalism, strategic infrastructure investment, and commitment to safety are retained.

I am especially pleased that the Senate rejected an amendment to strike the stormwater runoff mitigation provision that is contained in the measure, which sets aside 2 percent of a State's Surface Transportation Program for stormwater runoff mitigation. According to the Environmental Protection Agency, polluted stormwater from impervious surfaces such as roads is a leading cause of impairment for nearly 40 percent of U.S. waterways not meeting water quality standards. In the Chesapeake Bay region, it is estimated that runoff from highways contributes nearly 7 million pounds of nitrogen, 1 million pounds of phosphorous and 167,000 tons of sediment annually to the bay. In Maryland alone, the Center for Watershed Protection estimates that the 7500 miles of Federal-aid highways generate yearly loads of 1.2 million pounds of nitrogen, 127,000 pounds of phosphorous and 25,000 pounds of sediment into Maryland waterways and eventually into Chesapeake Bay each year. A study by the Chesapeake Bay Commission estimates stormwater retrofit costs at more than $2.5 billion across the watershed. The stormwater provision will provide more than $66 million for the bay States and local governments for stormwater abatement, of which approximately $12.75 million would be available for Maryland.

For our Nation's transit systems, the legislation authorizes $53.8 billion—$12.3 billion more than provided in TEA–21—to modernize and expand our transit facilities. These funds will go a long way to meeting the growing demand for transit in cities, towns, rural areas, and suburban jurisdictions across the country. Maryland's formula share of transit funding will grow by nearly 52 percent over the next 6 years—from $571 million to $870 million. These funds are absolutely critical to Maryland's efforts to maintain and upgrade the Baltimore and Washington Metro systems, the MARC commuter rail system serving Baltimore, Washington, DC, Frederick, and Brunswick, and the Baltimore Light Rail system. Bus systems and paratransit systems for elderly and disabled people throughout Maryland will also receive a big boost in funding. The measure also includes a provision reauthorizing the National Transportation Center—NTC—at Morgan State University. The NTC conducts important research, education and technology transfer activities that support workforce development of minorities and women, and addresses urban transportation problems. In addition, it includes provisions which would address a very important issue for employees of the Food and Drug Administration who will be relocating to the new FDA headquarters at White Oak, MD, enabling the agency to use its own vehicles to offer employees shuttle service to and from the metro system at Silver Spring and potentially other transit facilities. The potential impact of this provision on regional traffic is not insignificant. When construction of the White Oak complex is completed, FDA will house more than 7,000 FDA researchers and administrators at the new facility. By enabling this access from FDA's new campus to a transit station, we can reduce congestion on area roadways, improve our environment and elevate the quality of life for FDA employees. The legislation also includes a requirement for the Federal Transit Administration to report to Congress on ways to promote improved access to and increased usage of tax-free transit benefits at Federal agencies in the National Capital Region. Increasing use of public transit by federal employees has the potential to greatly aid our efforts to combat congestion and pollution in the region.

I am particularly pleased that the legislation includes the Transit in Parks Act, or TRIP, which I introduced. This new Federal transit grant initiative will support the development of alternative transportation services—everything from rail or clean fuel bus projects to pedestrian and bike paths,

or park waterway access, within or adjacent to national parks and other public lands. It will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact.

Like any other complex and comprehensive piece of legislation, this bill has its share of imperfections. But if we are to ensure not only the safe and efficient movement of people, goods and services, but also the future competitiveness and productivity of our economy, we must make these investments, and move forward with this legislation. I urge my colleagues to join me in approving this measure.

Mr. CARPER. Mr. President, I would like to thank the Environment and Public Works Committee Chairman INHOFE and Ranking Member JEFFORDS, the Banking Committee Chairman SHELBY and Ranking Member SARBANES, Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS, and Transportation Subcommittee Chairman BOND for all their hard work in developing this bill and bringing it to the floor. We all know how important it is that we complete work on it and get it to the President as soon as possible.

We face many challenges in our transportation system. Traffic congestion continues to worsen. In the Philadelphia area—which includes Wilmington, DE—rush hour motorists spent 38 hours in traffic in 2003. The number of cities experiencing 20 hours of delay or more per year has increased from only 5 in 1982 to 51 in 2003. This kind of congestion costs this country approximately $63 billion a year and wastes nearly 2.5 billion gallons of fuel. We can do better.

This bill would provide Delaware with $793 million over 5 years to address our transportation needs. These needs include the replacement of the Indian River Inlet Bridge Replacement in Sussex County which carries 16,000 to 18,000 vehicles daily, not including the summer beach traffic. It also includes needed improvements to increase capacity at the I–95/SR–1 interchange, the busiest interchange in New Castle County.

Transit would receive around $46.5 billion over 5 years, funding the increasing demand for transportation choices, allowing people to get around without a car. This demonstrates our growing awareness that while roads and bridges and highways are important and we still love our cars in this country, more and more people are using transit.

With the congestion we have on our highways, with our increasing dependence on foreign oil, with our increasing problems with air pollution, it certainly makes sense to provide reliable transit for people to get to work, shop or attend a ball game. In the city of Wilmington, nearly 27 percent of households have no car and 44 percent have only one. This saves families money that can be better invested in home-ownership and their children's education.

In Delaware, we are responding to the demand for more transportation choices by making improvements to allow more SEPTA trains to serve Wilmington and Newark, and we hope to extend rail service to Middletown in the near future. Also, the State is investing in the replacement of our buses to improve transit statewide.

The transit title will also help states fund welfare-to-work transportation programs. In Delaware, our welfare-to-work program provides approximately 3000 welfare recipients with access to jobs by creating alternative transit services in cooperation with other social service providers. This is the only way these participants could access employment and training.

In this important legislation, we are also investing $5.8 billion in safety programs. This includes an incentive program for states to pass primary seatbelt laws like we now have in Delaware. Wearing a seatbelt is the most important step anyone can take to improve their chances of surviving a car crash, and primary enforcement seatbelt laws are the most effective way to increase seatbelt use. Since Delaware's primary seatbelt law became effective in 2003, seatbelt usage has increased from 75 percent in 2003 to 82 percent in 2004.

We are also creating in this bill a program to make it safer for children to walk to school. A recent national survey found that while 70 percent of parents walked or bicycled to school as children, only 18 percent of their children do today. Parents often say that walking to school is no longer possible because there are busy, fast-moving, multi-lane streets between home and school and often no sidewalks at all.

As more and more children are driven to school, we see traffic jams in school parking lots and increasing pollution around schools. Meanwhile, children lose this simple way to get a little exercise at a time when many American children are struggling with being overweight and 15 percent are now considered obese, putting them at risk of a number of chronic diseases. Through the Safe Routes to School program, states will be able to slow cars around schools, add crossing walks, build sidewalks and organize walking school buses where members of the community walk a school bus route to walk kids to school.

Unfortunately, this bill does not completely overcome the tradition of separating the different modes of travel and treating them as if they are separate systems. The users of the transportation system—the American people—don't use the system that way. The design of highways affects people's ability to access transit, walk to the store or go for a jog. The way we design our transportation system affects people's quality of life, the amount of pollution in the air, the amount of oil we need, and the amount of polluted runoff in our water.

In fact, when we develop our transportation network without proper consideration of other neighborhood needs, we find ourselves having to spend more money to retrofit streets so that kids may safely walk to school or to decrease the amount of pollution that runs off roads into our rivers and lakes. And when we keep roads separate from transit and transit separate from intercity rail and rail separate from air travel, we miss the opportunity to make the system work more efficiently.

Sadly, this bill, which is supposed to address the Nation's surface transportation policy, barely even mentions it. But later in the year we will have the opportunity to consider what kind of support the Federal Government should provide freight and passenger rail. This is an important area that we have neglected for too long.

I hope as we consider a national rail policy we look at what has worked for highways, transit and air and use it to develop a robust rail system. I also hope that we do not consider rail in a vacuum but rather look for opportunities to coordinate rail investment with other modes of travel—connecting airports to cities through rail for more seamless travel and connecting ports to rail to highways for more efficient shipment of freight.

Finally, because of the need to schedule a vote at 5:30 last Thursday, I was unable to make a statement in favor of Senator HARKIN's complete streets amendment, an amendment that I cosponsored and strongly supported. So I would like to do so now.

First I would like to thank my colleague, Senator HARKIN, for offering this amendment. I am proud to be a cosponsor. The adoption of the complete streets amendment would be an important step forward in providing safe transportation options for Americans. It would support active and healthy lifestyles and encourage people to get out of their cars. It would also reduce pollution and our reliance on foreign oil.

It simply requires State transportation departments and metropolitan planning organizations to fully integrate the needs and safety of all road users into the design and operation of federal-aid roads and highways. In other words, as we design our roads, we must consider more than just the needs of cars. We must consider bicyclists, pedestrians, and everyone who uses our roads.

There are deadly consequences when this does not occur. Recently, a young woman from Poland who was working for a year in Lewes, DE, was killed while riding her bike. There are hundreds of young people from Europe who come to work near the beaches in Delaware. Many of them do not have or

cannot afford a car and get around by bicycle.

This particularly young woman, named Katarzyna Reteruk, was leaving her place of employment—Anne Marie's Seafood and Italian Restaurant on Route 1—and was about to turn onto Route 24, when she was hit by a woman leaving her place of employment. Katarzyna was thrown from her bike, struck the hood and windshield of the car, and died a short while later.

This tragic event took place in a rapidly growing area of the State and on a highway that has had increasing congestion over the years. This is a challenge many areas of the country are facing. But we have to ensure that we learn from this tragedy and others like it. We must make improvements to our roadways for motorists—but we must also address the safety and mobility needs of bicyclists and pedestrians.

We often say that we want to encourage people to get out of their cars and be more active. But when there is no place for people to safely walk or bike, we can't expect them to do so. In a time of increasing obesity, especially in our children, the time has come to ensure that opportunities to walk to school or to a friend's house or just for exercise are available in as many places as possible.

By considering the needs of non-motorists, we will improve mobility for those who cannot afford a car—including young people just starting out—and allow a family of 5 to more easily get by with only 2 cars.

We have already included in this bill a program called Safe Routes to Schools to retrofit our roads to make them safer for children to walk to school. This amendment is an excellent addition to that provision in that it would ensure that new road projects are built with pedestrians in mind, saving us from having to spend money to retrofit roads later.

Under the complete streets amendment, State departments of transportation and metropolitan planning organizations would have to: 1, fully integrate the needs of pedestrians and bike riders in the transportation planning process; 2, promote pedestrian and bicycle safety improvements, and 3, set goals for increasing non-motorized transportation.

Metropolitan planning organizations serving 200,000 people or more, such as the one in Wilmington, DE, would have to designate a bicycle/pedestrian coordinator and account for the safety needs of pedestrians and bicyclists in their long term plans.

Finally, the Secretary of the U.S. Department of Transportation would report to Congress annually on the share of research funds allocated to directly benefit the planning, design, operation and maintenance of the transportation system for non-motorized users.

This amendment would build expertise in how we can make our roads safer for bicyclists and pedestrians, while improving our roads for drivers as well. I hope that we are able to encourage its adoption in conference.

Mr. LEVIN. Mr. President, funding for transportation infrastructure such as roads, bridges and border crossings is a sound investment that increases the mobility of people and goods, enhances economic competitiveness, reduces traffic congestion, and improves air quality. Those improvements in transportation infrastructure are critical to our States, and the Federal highway money that States receive is critical for funding them. In addition, few Federal investments have as large and immediate an impact on job creation and economic growth as transportation infrastructure. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs.

Unfortunately, the formula that distributes Federal highway funds to States is antiquated and inequitable. Historically, about 20 States, including Michigan, have been ''donor'' States, sending more gas tax dollars to the highway trust fund in Washington than are returned in transportation infrastructure spending. The remaining 30 States, known as ''donee'' States, have received more transportation funding than they paid into the highway trust fund.

This unfair practice began in 1956 when small States and large Western States banded together to develop a formula for distributing Federal highway dollars that advantaged themselves over the remaining States. Once that formula was in place, they have tenaciously defended it.

At the beginning, there was some legitimacy to the concept that large, low-population, and predominately Western States need to get more funds than they contributed to the system. It was the only way that we could build a national interstate highway system. However, there is no justification today for any State getting more than its fair share. With the national interstate system completed, the formulas used to determine how much a State will receive from the highway trust are simply unfair.

Each time the highway bill has been reauthorized, I, along with my colleagues from the other donor States, have fought to correct this inequity in highway funding. Through these battles, some progress has been made. For instance, in 1978, Michigan was getting around 75 cents back on our Federal gas tax dollar. The 1991 bill brought us up to approximately 80 cents per dollar, and the 1998 bill guaranteed a 90.5-cent minimum return for each State.

Last year, we believed we had another significant victory when the Senate passed a bill that would have given donor States 95 cents on the dollar in the final year of the bill. Unfortunately, that bill died in conference due to the President's veto threat and his unwillingness to accept the funding levels in either the House or Senate bill.

This year's legislation, however, would give donor States just 92 percent of their highway trust fund contributions by 2009. Although that is a small step in the right direction of closing the equity gap, we still have a long way to go to achieve fairness for Michigan and other donor States.

This bill is also a setback from last year's bill because it provides fewer overall transportation dollars. Last year, the Senate wisely passed a bill that would have pumped $318 billion into our transportation systems over 6 years. This year, the Senate has reduced that funding down to $295 billion. That is more than the House-passed bill of $284 billion but still less than what is needed.

Michigan's rate of return would go from 90.5 percent to 92 percent immediately and remain at 92 percent for the full 5 years of this bill. Under this bill Michigan would get an annual average funding level of $1.134 billion which represents a 28-percent gain over TEA–21.

We have made progress in this bill compared to current law in the ongoing fight for equity for donor States. I will continue to fight in the future, as I have in the past, looking toward full equity for Michigan. I recognize, however, that we have reduced the inequity a little more in each previous reauthorization bill, and we do so in this bill as well. This bill will bring billions of desperately needed dollars to States across the country. It will improve our Nation's transportation infrastructure and create millions of American jobs, and therefore I will support it, although its steps toward equity and fairness are very tiny indeed.

Mr. FEINGOLD. Mr. President, today the Senate will vote on final passage on the Senate version of H.R. 3, the SAFETEA bill. As we all know, the country has important transportation needs that Congress must address and I commend the managers of the bill for working hard to address highway construction, mass transit, highway safety and other important programs.

This is a very important bill and I am not taking my vote lightly. I have heard from numerous individuals and groups across Wisconsin who are opposed to another temporary extension and eager to have the certainty for planning purposes that comes with a full reauthorization. I understand their concerns and I share their desire that Congress provide necessary transportation funding. That is why I voted in favor of the motion to proceed to the bill and the motion to invoke cloture on the bill—because Congress needs to act on the country's transportation priorities. I wish I could vote for the bill. I would have voted for a bill that was equitable, even if it was not perfect. However, the current bill is far from equitable—in fact, it makes Wisconsin a double loser, both under the funding formula's rate of return and in the level of overall funding relative to the last bill, TEA–21. The bill does not

do nearly enough to help meet the transportation needs of my constituents in Wisconsin and, for that reason, I will vote against the bill.

Let me take a little time to explain my concerns with the bill, starting with the funding formula this bill would establish. Under that formula, certain States would continue to receive significantly more money than they pay into the highway trust fund, while other States continue to be denied their fair share. In fact, the number of donor States—or those who receive less than their fair share—would actually increase under this bill compared to the final year of TEA–21. In 2004 there were 27 donor States, while by the end of the new bill in 2009 there would be 31 States that pay more into the highway trust fund than they receive back. Six States—Iowa, Maine, Minnesota, New Hampshire, Oregon and Wisconsin—would become donors, while only Arkansas and Nebraska would leave that category.

I worked hard with the rest of the Wisconsin delegation during the last successful authorization to make sure that our State finally got a fair rate of return. Let me tell my colleagues, that change was long overdue. According to numbers from the Department of Transportation, from 1956 through 2000, Wisconsin got back just 90 cents on every dollar it paid into the trust fund.

In TEA–21, Wisconsin at last received a fair return. Unfortunately, this bill will take us back to where we were for the previous four decades—in the hole. Under the new formula, Wisconsin will once again be a donor State in 2006 and receive the bare minimum rate of return of 92 percent by the final year of the bill. I have spoken to other members of our State's delegation, and I think I can safely say we agree that Wisconsin deserves better.

It is bad enough that the bill would return Wisconsin to donor status. Adding insult to injury is the level of funding that this bill would provide for my State. This bill provides almost flat funding for Wisconsin, which we all know in real terms is a cut. In 2004 under TEA–21, Wisconsin received $635 million, while the average spending under the current bill would only be $642.8 million per year. When these figures are adjusted for inflation, in real terms the bill means a reduction of over $35 million each year for Wisconsin, reducing our ability to meet our transportation needs—all while we become a donor State and again subsidize other States' transportation projects.

I cannot support a bill that treats Wisconsin so poorly with respect to both overall funding and the formula's rate of return. Fortunately, today's vote is not the final word on this bill. I will continue to work hard with the senior Senator from Wisconsin and the rest of the State's delegation to do everything that we can to produce a final transportation bill that is fair for our constituents.

Mr. DOMENICI. Mr. President, I rise today in support of the highway bill. I want to first applaud the bill manager, my good friend Senator INHOFE for all of his hard work on this important legislation. I also want to thank the ranking member of the EPW committee, Senator JEFFORDS, for his work on the bill.

Mr. President, the highway bill is one of the most important pieces of legislation that the Senate undertakes. This bill makes it possible to construct and repair vital transportation arteries that crisscross this great Nation. As our country grows we must be conscious of our transportation needs. Accordingly, this bill increases funding for road construction that will substantially reduce traffic delays that plague the country. Additionally, this bill substantially increases transit funding further reducing congestion and pollution caused by over-populated highways.

My home state of New Mexico is one of the most rural states in the country. However, our population is on the rise and it is vitally important to ensure New Mexicans have the transportation infrastructure they need to be competitive with the rest of the country. This bill will provide roughly $1.7 billion in funding for New Mexico specific projects.

This bill also increases funding for the Indian roads program. I have advocated for increased Indian roads funding for a number of years and while this increase only begins to address the need, it will help immensely in addressing the economic development problems facing Indian Country.

Once again, I would like to thank the chairman and ranking member of the EPW Committee and their staff for doing a great job in getting this bill completed.

Mr. GREGG. Mr. President, the Senate voted last Wednesday morning, May 11, to waive the Budget Act point of order that applied against the Inhofe substitute, Senate Amendment 606. The Budget Committee has since received a cost estimate of that substitute from the Congressional Budget Office. As I pointed out last week, CBO was not able to provide a more timely estimate because the language was not provided to them until it became available on May 10, a day after the Inhofe substitute was put before the Senate. Apparently none of the committees of jurisdiction had asked CBO for an estimate of their combined amendment.

So for the information of my colleagues and the public, I would like to enter a table into the RECORD that summarizes the status of this highway bill with regard to budgetary enforcement—showing why there was a 302(f) point of order that I raised.

I would also like to place into the RECORD a table that addresses not the contract authority, which is the relevant unit of analysis for budgetary enforcement of this bill, but the deficit results of this bill. Last week the bill's proponents repeatedly asserted the bill is ''paid for'' over the 2005–2009 window of the bill and reduces the deficit by $14 billion over the 2005–2015 period. It is hard to know how anyone could say this because the Budget Committee and the other committees did not receive until yesterday CBO's estimate of highway trust fund outlays resulting from the Inhofe substitute. Combining those outlay estimates with JCT's estimate of the new revenues that would occur if the provisions of the substitute were actually enacted, we know that the substitute would increase the deficit by $0.5 billion over the 2005–2009 period, and would reduce the deficit by only $3.5 billion over the 2005–2015 period, not $14 billion as the proponents have claimed.

But these budgetary effects come after other general-fund transfer provisions—relating, for example, to the 2.5 cents deficit reduction tax on gasoline and 5.2 tax subsidy for ethanol were enacted in the JOBS bill, P.L. 108–35—last fall. By creating higher paper entries into the highway trust fund, those enacted provisions will have the consequence of increasing the spending possible from the highway trust fund by $31 billion over the 2005–2015 period without a corresponding increase in new Federal revenues. This will have the effect of increasing the deficit by $31 billion over that period.

It is true that both the President's budget request for 2006 and the 2006 budget resolution now contemplate spending those shifted resources on transportation programs. But combining those general-fund transfer provisions enacted last fall with possible enactment of the additional general-fund transfers and new revenues from general fund offsets in this Inhofe substitute before the Senate still will have the effect of increasing the deficit by $28 billion over the 2005–2015 period. Compared to the resources available for spending from the highway trust fund 7 months ago, if this Inhofe substitute is enacted, the increase in spending that will be enabled from the highway trust fund will increase the deficit by $28 billion.

Mr. President, I ask unanimous consent that 2 tables displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF BUDGET AUTHORITY LEVELS IN INHOFE SUBSTITUTE (SA 605) TO COMMITTEE ALLOCATIONS IN 2006 BUDGET RESOLUTION

[$ billions]

	2005	2006	2006–10
Committee			
Environment and Public Works			
Amount over (+)/under (-)	−1.5	−0.3	22.6
Banking			
Amount over (+)/under (-)	0.6	0.6	3.1
Commerce			
Amount over (+)/under (-)	0.0	0.1	0.2

Source: Senate Budget Committee.

DEFICIT EFFECT OF INHOFE SUBSTITUTE (SA 605) TO H.R. 3—TRANSPORTATION REAUTHORIZATION BILL

[$ billions]

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2005–2009	2005–2015
Outlays [a]													
Highway Trust Fund Outlays under Inhofe Substitute (SA 605)	40.5	38.3	43.6	47.0	49.6	50.6	52.6	54.0	55.2	56.2	57.6	178.5	504.5
Highway Trust Fund Outlays under reported version HR 3	40.5	37.7	42.1	44.9	47.3	48.7	51.0	52.4	53.6	54.6	56.0	172.0	488.3
Increase in Outlays Resulting from Inhofe Substitute (SA 605)	0.0	0.6	1.5	2.1	2.3	1.9	1.6	1.6	1.6	1.6	1.6	6.5	16.2
Revenues [b]													
New Highway Trust Fund Revenues Resulting from Inhofe Substitute (SA 605)—Fuel Fraud	.....	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.7	1.7
New General Fund Revenues Resulting from Inhofe Substitute (SA 605)													
Economic Substance Doctrine	.....	0.6	0.8	1.1	1.3	1.4	1.6	1.9	2.2	2.4	2.6	3.8	16.0
Other Revenue Increases	0.1	0.5	0.5	0.5	0.5	0.4	0.3	0.3	0.3	0.3	0.3	2.0	3.9
Assorted Tax Breaks	0.0	−0.1	−0.1	−0.1	−0.1	−0.2	−0.2	−0.2	−0.2	−0.3	−0.3	−0.5	−1.8
Total Net New Federal Revenues Resulting from Inhofe Substitute (SA 605)	0.1	1.1	1.4	1.7	1.8	1.9	1.9	2.1	2.4	2.6	2.8	6.0	19.8
Amount that Increase in Outlays Exceeds Increase in Revenues Resulting from Inhofe Substitute (SA 605)													
Deficit Increase(+)/Decrease(-)	−0.1	−0.6	0.1	0.5	0.5	0.0	−0.3	−0.5	−0.8	−1.1	−1.2	0.5	−3.5

MEMO: DEFICIT INCREASE RESULTING FROM GENERAL FUND TRANSFERS INTO HIGHWAY TRUST FUND ENACTED IN P.L. 108–357 (does not include enacted fuel fraud provisions) [c]: 31.3.

a. Outlays as estimated by CBO.

b. Revenues as estimated by JCT.

c. CBO estimate based on JCT figures.

Note: Details may not add to totals because of rounding.

Source: Senate Budget Committee, Majority Staff.

Mr. BURNS. Mr. President, I rise today to express my appreciation to the managers of this legislation for including my amendment relating to commercial driver training programs. The amendment authorizes $5 million to the Department of Transportation for a grant program for driver training schools and for financial assistance for entry-level drivers who need the training.

In my State of Montana, and around the country, the trucking industry is a critical component of the economy. In 2000, the trucking industry in Montana provided 1 out of every 13 jobs, paying nearly $900 million in wages each year. Currently, the trucking industry is experiencing a severe shortage of drivers, and my amendment seeks to address that concern by providing funds to get folks behind the wheel.

Industry research indicates the number of new truck drivers in the U.S. needs to increase by 320,000 jobs per year over the next 10 years to fill the projected economic growth for that time period. Additionally, another 219,000 new truck drivers will have to be added each year to replace drivers who will be retiring over this period. Those are important jobs, and we need to get folks trained and ready to fill the growing demand for transportation services.

The average entry-level driving course can run as much as $4,000. Those tuition costs can serve as a barrier to drivers who need the training, and my amendment would allow training programs to use grant money to provide financial assistance to those who need it. When you are out of work and looking for a job, a $4,000 entry fee can seem a little steep—so this amendment will help folks out, and give them the resources they need to get trained and get trucking.

The highway bill before the Senate right now is a jobs bill, plain and simple. By authorizing critical funding for highway programs, we keep people working on our Nation's infrastructure. Construction projects that are currently stalled or deferred, waiting for final passage of a highway bill, can get underway again. My amendment contributes to the job growth encouraged by the highway bill, and I am pleased that it could be included. I commend the managers of this bill for their hard work but know that much more remains to be done in conference. In a State as large as Montana, infrastructure development is essential to our economic growth. This legislation will allocate needed funds to our roads and transit systems. The highway bill is a priority for our country, and I look forward to supporting its final passage here in the Senate.

Mr. GRASSLEY. Mr. President, after great effort by many people, the Senate is ready to move us one step closer to enacting legislation with the potential to impact all Americans in every state. Crumbling infrastructure and poor transportation choices impede our ability to live and do business, and the Senate clearly recognizes that fact. Our transportation bill utilizes more than $295 billion to ensure all Americans have access to efficient and reliable transportation as they go about their professional and personal lives.

Among the many people whose hard work has made the difference, I must first thank the chairmen and ranking members of all the appropriating committees that have been involved in this process.

Credit must also go to all members of my staff, who spent many hours sifting through the nuts and bolts of this bill. Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Ed McClellan, Dean Zerbe, John O'Neill, Sherry Kuntz, and Nick Wyatt showed great dedication to the tasks before them.

As is usually the case, the cooperation of Senator BAUCUS and his staff was imperative. I particularly want to thank Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, Jon Selib, Anita Horn Rizek, Judy Miller, Melissa Mueller, Ryan Abraham, Mary Baker, and Wendy Carey.

I also want to mention George K. Yin, the chief of staff of the Joint Committee on Taxation and his staff, especially the fuel fraud team of Tom Barthold, Deirdre James, Roger Colinvaux, and Allen Littman, as well as the always invaluable assistance of Mark Mathiesen, Jim Fransen and Mark McGunagle of Senate Legislative Counsel.

This bill is infused with the spirit of bipartisan cooperation. Hopefully that spirit will survive the ongoing legislative process.

The PRESIDING OFFICER. Without objection, the committee substitute is agreed to.

There will now be 2 minutes evenly divided before the final vote.

The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, once again I thank Senator INHOFE and all of the Senators and staff that have helped us reach this point.

This bill will make a difference in the life of every American by making it easier and safer to get from place to place.

In passing this bill, the Senate puts this Nation on the path to better roads, on the path to shorter and safer commutes, and on the path to more jobs. And this bill will not add a dime to the deficit.

The additional $11 billion in this bill will allow all States and all communities to benefit under this legislation, and it is crucial that we hold on to that funding as we move forward with this bill.

The President's veto threat against this bill is a mistake, it is misguided and it is flat out wrong.

Let's get this bill done, and get it done right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I yield to Senator BOND.

Mr. BOND. Mr. President, after working 2½ years on this bill, we have a bill that brings the environmental considerations into the planning early on so they can be dealt with without wasting money, time, and resources.

No State gets as much as they would like, but thanks to the Finance Committee, the donor States get up to 92 cents. All States go up by at least 15 percent. Given the constraints under which we operated, I urge my colleagues to adopt this bill.

I commend the chairman of the Senate Environment and Public Works Committee, JIM INHOFE, along with Senators BAUCUS and JEFFORDS for a job well done. It has been a pleasure working with them.

I also think it is appropriate to recognize the staff members that have put in many countless hours of their time to assist in drafting this legislation.

I want to especially recognize my staff: Ellen Stein, John Stoody and Heideh Shahmoradi.

Staff with Senator INHOFE: Ruth Van Mark, James Q'Keeffe, Andrew Wheeler, Nathan Richmond, Greg Murrill, Alex Herrgott, John Shanahan, Angie Giancarlo, and Rudy Kapichak.

Senator JEFFORD's staff: JC Sandberg, Allison Taylor, Malia Somerville, JoEllen Darcy, and Chris Miller.

And Kathy Ruffalo with Senator BAUCUS.

This bill faced great challenges within these past 2½ years. The committee worked hard through many meetings, hearings, a failed conference, and all to repeat the process again this year in order to get where we are today.

Interestingly enough, while on the floor both last year and this year, the Senate was sidetracked by ricin last year which had the Senate office buildings shut down for a couple of days. And just last week, a general aviation aircraft entered our air space causing us all to run out of the Senate Chamber. I can honestly say, I will be relieved when this bill is finally passed.

Some of the highlights that I am proud of in this bill include the emphasis on safety. Safety, for the first time in our recent transportation legislation, is given a prominent position and elevated to a core program.

This bill mirrors the administration's proposal by continuing our commitment to our motoring public's safety.

Nearly 43,000 lives are taken on our roads and highways each year. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure, but also to the general safety and welfare of our constituents.

Another highlight of this bill moves to carefully balance the needs of the donor States while also recognizing the needs of donee States.

My home State of Missouri, like many of the donor States mentioned, has some of the worst roads in the Nation. The condition of many of the roads and bridges in Missouri require immediate repair or reconstruction.

I am pleased to say that we did make progress in achieving a 92 cent rate of return by the end of the authorization. I am hopeful that donor States will see a dollar for dollar rate of return in the future.

Further, I am proud to announce that all States will grow at not less than 15 percent over TEA–21.

The bill also addresses several environmental issues that provide the necessary tools to reduce or eliminate unnecessary delays during the environmental review process.

Transportation projects can be built more quickly by allowing environmental stakeholders to weigh in at the early stages.

Mr. President, we are facing an expiration of May 31. I am confident that if conferees are named shortly, we will only require a short-term extension and can move this bill through conference quickly.

Our States need a multi-year bill. We cannot delay contracts anymore. The economy needs this boost and people need the jobs that this bill will provide.

I look forward to continuing to work with my colleagues as we go to conference.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Missouri is accurate. We have been talking about this for 3 years now. I do not think there is anything new that can be said, but I do renew my congratulations and thanks to all the staff who worked on this bill, certainly Senator JEFFORDS, Senator BAUCUS, and Senator BOND.

I agree it would be nice if we had something with which everyone agreed. It is impossible to do. The only way to do that is in a way that is not desirable. We did a formula, and we took into consideration all the factors—donee, donor States, size of the States, passthrough, fatalities—and I think we have a good bill.

I yield back the remainder of my time. Have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. INHOFE. I withhold my request for the yeas and nays.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is 13 seconds remaining.

Mr. BAUCUS. Thirteen. I will be brief.

Mr. President, I thank all my colleagues. This was a consequence of both sides working together—big States, small States. It is now time to get to conference. It is also a good example of what we can do if we do not have this filibuster issue hanging over our heads. We can work together. We can get things done. I very much hope Senators recognize this because afterwards, it may not always be this way.

The PRESIDING OFFICER. All time has expired.

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—89

Akaka	Dodd	Mikulski
Alexander	Dole	Murkowski
Allard	Domenici	Murray
Allen	Dorgan	Nelson (FL)
Baucus	Durbin	Nelson (NE)
Bayh	Ensign	Obama
Bennett	Enzi	Pryor
Biden	Feinstein	Reed
Bingaman	Frist	Reid
Bond	Grassley	Roberts
Boxer	Hagel	Rockefeller
Bunning	Harkin	Salazar
Burns	Hatch	Santorum
Burr	Inhofe	Sarbanes
Byrd	Inouye	Schumer
Cantwell	Isakson	Sessions
Carper	Jeffords	Shelby
Chafee	Johnson	Smith
Chambliss	Kennedy	Snowe
Clinton	Kerry	Specter
Coburn	Landrieu	Stabenow
Cochran	Lautenberg	Stevens
Coleman	Leahy	Talent
Collins	Levin	Thomas
Conrad	Lieberman	Thune
Corzine	Lincoln	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
Dayton	Martinez	Wyden
DeWine	McConnell	

NAYS—11

Brownback	Graham	Kyl
Cornyn	Gregg	McCain
DeMint	Hutchison	Sununu
Feingold	Kohl	

The bill (H.R. 3), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. DURBIN. Mr. President, today the Senate has overwhelmingly approved the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, SAFETEA, H.R. 3. I supported this important legislation, as I did last year when the Senate passed a

similar measure, S. 1072. I believe it is a critical step toward funding our Nation's transportation infrastructure and creating much needed jobs.

Now the real work begins. The Senate funding level is $295 billion. The House has passed its version, TEA–LU, at $284 billion over 6 years. And the President unfortunately supports the lower House number. In fact, he has threatened to veto any transportation bill that exceeds the $284 billion funding level.

I was proud to join 83 of my Senate colleagues in standing firm on the Senate level of $295 billion. The White House should take note that at least 84 Senators—a supermajority—support a higher number.

Reauthorization of TEA–21 is one of the most important job and economic stimuli that the 109th Congress can pass. We must work quickly to deliver the best conference report at the highest possible funding level. We should not let further delay stand in the way of real transportation infrastructure improvement, economic development, and job creation.

I would like to take this opportunity to discuss the benefits of this legislation for my home State of Illinois.

H.R. 3, as amended by the Senate, would make the largest investment to date in our Nation's aging infrastructure, $295 billion over the life of the bill. In short, SAFETEA would increase the State of Illinois' total Federal transportation dollars and provide greater flexibility. It would help improve the condition of Illinois' roads and bridges, properly fund mass transit in Chicago and downstate, alleviate traffic congestion, and address highway safety and the environment.

The bill would provide $184.5 billion over the next 5 years for highways and other surface transportation programs. Illinois has the third largest Interstate System in the country; however, its roads and bridges are rated among the worst in the Nation. The State can expect to receive more than $6.1 billion over the next 5 years from the highway formula contained in the Senate bill. That is a 33-percent increase over the last transportation bill, TEA–21.

With these additional funds, the Illinois Department of Transportation will be able to move forward on major reconstruction and rehabilitation projects throughout the State.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate traffic congestion, lessen air emissions, and provides access for thousands of Illinoisans every day. H.R. 3, as amended by the Senate, includes $46.53 billion over the next 5 years for mass transit. Illinois would receive about $2.22 billion over the next 5 years under the Senate bill, a $286 million or nearly 15-percent increase from TEA–21.

This legislation also preserves some important environmental and enhancement programs, including the Congestion Mitigation and Air Quality, CMAQ, program. CMAQ's goal is to help States meet their air quality conformity requirements as prescribed by the Clean Air Act. The Senate bill would increase funding for CMAQ from $8 billion to $10.8 billion—an increase of 35 percent. Illinois received more than $460 million in CMAQ funds in TEA–21. The State is expected to receive an increase in CMAQ funds under the Senate bill.

With regard to highway safety, Illinois is 1 of 20 States that has enacted a primary seatbelt law. H.R. 3 would enable the State of Illinois and other States who have passed primary seatbelt laws to obtain Federal funds to implement this program and further improve highway safety.

I know this legislation is not perfect. Illinois' highway formula should be higher. Amtrak reauthorization and rail freight transportation funding are noticeably absent. And important road and transit projects from around my home State have not yet been included. I will work with Senator BARACK OBAMA, a member of the Environment and Public Works Committee, and my Illinois colleagues in the House to ensure that Illinois receives a fair share of transportation funds—highway, transit, and highway safety—in the final conference report.

I know my colleagues on the other side of the Capitol understand the importance of this legislation and I am hopeful that Congress can expeditiously work through the differences between the House and Senate bills in a conference committee. One of every five jobs in Illinois is related to transportation, including construction jobs. Unless Congress moves quickly, we will lose another construction season and the important jobs that are created by public investment in transportation.

Mr. President, with the passage of this legislation, the Senate has upheld its obligation to reauthorize and improve our Nation's important transportation programs. I am pleased to support SAFETEA.

MISSED SENATE VOTES

Mr. DAYTON. Mr. President, on May 11, 2005, I was necessarily absent from the Senate to attend the funeral of St. Paul, MN police officer, Sergeant Gerald Vick, who tragically lost his life in the line of duty on Friday, May 6, 2005. I joined over 2,000 Minnesotans in paying our final respects to this heroic peace officer, community leader, and devoted husband and father.

Had I been present to vote on the amendments to the Transportation Equity Act, I would have voted as follows:

On the motion to waive the Congressional Budget Act, in relation to amendment No. 605 and H.R. 3, I would have voted ''yea.''

On the motion to table Corzine amendment No. 606, I would have voted ''nay.''

On the Lautenberg amendment No. 625, I would have voted ''nay.''

On the Harkin amendment No. 618, as modified, I would have voted ''yea.''

Mr. INHOFE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER. Mr. President, did my friend wish to make some comments on the floor at this time?

Mr. INHOFE. Mr. President, first of all, no. I am not going to make any additional remarks. I was going to put us into morning business. I understand the Senator had some things she wanted to talk about.

Mrs. BOXER. If you could do that, if you could ask unanimous consent I be recognized first in morning business.

MORNING BUSINESS

Mr. INHOFE. I ask unanimous consent there now be a period for morning business, with Senators permitted to speak for up to 10 minutes on any subject, with Senator BOXER going first.

Mrs. BOXER. Reserving the right to object, and I will not object, but my statement will run 30 minutes. I ask that be amended at this point.

Mr. INHOFE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

THANKING SENATOR INHOFE

Mrs. BOXER. Mr. President, before my colleague, Senator INHOFE, leaves the floor, I truly wish to say to him, as my chairman, how much I have enjoyed working with him on the Environment and Public Works Committee. What an important bill we have done, all of us together, across party lines. I am very hopeful we can see this bill move forward so the American people can move forward with their lives. They need the highways. They need the transit. They need the jobs this bill promises.

I wished to thank him before he left the floor.

JUDICIAL NOMINATIONS

Mrs. BOXER. Mr. President, I have asked for this time so I could talk about the issue that is really hanging over the head of the Senate, as Senator BAUCUS said when he gave his support to the highway and transit bill: What we can do when we work together. What we can do when we set aside the partisanship. What we can do when we work for our people, rather than make up a phony crisis about the courts and threaten to change more than 200 years of tradition and threaten a nuclear option—which was named by the Republicans, by the way, when they thought about it because it is so vicious, it hurts so hard, it has such fallout that it will change the very nature of the Senate. But more importantly, it will change the way we now can protect the people of the United States of America.

This is a very simple chart. It shows the numbers 208 to 10; 208 represents

the number of judges President Bush has been able to get voted into office as a result of actions of this Congress since he got into power. Two hundred eight of his judges have gone through. This Senate has stopped 10, 10 of his nominees. Actually, some of my colleagues remind me now it is really only five because some of them are no longer up for judgeships or we have relented on a couple of them, but I am going to be fair to my colleagues on the other side of the aisle and paint the worst possible picture in terms of the number we have stopped—10.

This is a 95-percent success rate. I ask the people of this country to think about what it would mean in their lives if they got 95 percent of what they wanted. If their child came home on a regular basis with 95 percent from school? That is an A+. If their spouse said, ''Honey, I agree with you,'' 95 percent of the time and you got your way 95 percent of the time, you would be smiling.

When you went to work and you had a pretty tough boss, and your boss called you into the office and he said, ''You know, you are a fine worker, Barbara. You are a great worker. As a matter of fact, I have looked over your work, and I have agreed with you 95 percent of the time,'' I think that is the moment I would ask for a raise.

If you get what you want 95 percent of the time, you should have a broad smile on your face. You should feel good about yourself. You should feel great about yourself.

But you know what, if you wanted 100 percent all the time, if you never wanted to give 1 inch of space, if you demanded that your child get 100 percent every time, you would not be happy. I call it the arrogance of power.

What we are seeing in the United States of America is an arrogance of power. My colleagues—and particularly the White House—are not happy getting 208 of their judges but not getting 10 of their judges; they are not happy with 95 percent results. What do they do? They say: We want to change the rules of the Senate. All right, what are the rules of the Senate? The rules of the Senate say on a nomination as important as a judge, which is very key, following the Constitution, which says a President must take the advice and get the consent of the Senate, there can be extended debate on that judge. To stop that extended debate, it requires not 51 votes; it is 60 votes. That is how we have operated for a very long time.

By the way, it is important to note, it was even harder to get a nomination through. For a while, it was 67 votes. Before that, there was endless debate. You could never stop debate, ever. We have eased that rule.

We believe it is important for a lifetime appointment to the courts—and these are very important positions. They are paid a lot of money. They get a great retirement, not like United Airlines, they will get their retirement. We believe they ought to be terrific—mainstream, at least. And to stop extended debate, they have to pass a little bit of a higher threshold: 60 votes. Some of these nominees are so outside the mainstream they cannot get 60 votes. So the Republicans said: We will just change the rules. They looked in their little rule book, and they found it takes 67 votes to change the rules of the Senate, and they said: My goodness, we do not have that. Maybe we have 51 with the Vice President voting with us—he votes on a tie vote—but we do not have 67 votes. So let's go about it in a way that no one would ever expect. We will raise what we call a point of order, have a ruling of the Chair, and the Chair will rule—and it will be DICK CHENEY—that the Senate can no longer filibuster judges. Then we will have a little disagreement over that. They are getting 51 votes, they think. Maybe not. We do not know.

That is the nuclear option. A lot of my colleagues on the Republican side are nervous about it, and they will wind up, if they get 51 votes, changing the rules of the Senate without the 67 votes.

Imagine what would happen at a baseball game if in the middle of the game someone said there is no such thing as a home run, or it is an out if the ball bounces first and you throw the person out at first base. People would go nuts. You do not change the rules in the middle of the game. That is not the American way. And you do not do it in a backdoor effort. I have voted to change the rules, but I do not try a sneaky way. I said you have to get 67 votes to do it. If you do not get the 67 votes, the rules are the same.

I take my time on this because it is important the American people understand what the Republican leadership is trying to do. They tried to change the rules in the House because they did not want to investigate TOM DELAY, who is the leader over there. They changed the rules. It was so shocking, they backtracked after months of the American people saying: That is not the American way. The people of the United States of America are saying it today. They are saying it by 60 to 70 percent of the vote: Do not change the way the Senate has done its business.

Anyone who saw the movie ''Mr. Smith Goes to Washington'' knows that Jimmy Smith in that film was able to stand on his feet and be heard for a righteous and just cause. A little bit later, I will show an example of a judge we stopped and why it was important to stop her.

Let the American people and my colleagues understand. Here is what is important. This should not be about political parties, folks. When Franklin Delano Roosevelt was President—as we all know, a Democrat, considered one of the greatest Presidents ever—he made a huge mistake in his Presidency. He wanted to pack the Supreme Court. He did not like their decisions.

At the time, the Democrat party had 74 seats in the Senate. They could have done it in a heartbeat. All they needed was just a few to peel off, they had it. What did they do? Democrats in those days, colleagues, stood up to the most popular President in history. He had gotten more than 60 percent of the vote. They said: Mr. President, we think you are great, but we are not going to pack the courts just because you feel they are not upholding all of your New Deal. It is not fair. We need a check and balance.

I know young people watching or listening to this debate understand what we are talking about. The checks and balances built into our Constitution—the courts check the legislature and the courts check the executive branch. What my colleagues on the other side of the aisle, save a few, want to do is take away that check and balance, have one party rule. And, oh my goodness, they did not get enough of what they want—208 to 10—and they are throwing a fit and trying to change the rules of the Senate. That is wrong and doing it in a way that is absolutely contrary to what we say has to be done to change the rules, which is 67 votes.

Now, the next thing they will say is there have never been any judge filibusters until the Democrats. We have never done that, say the Republicans, we are so good we have never done it.

Let me tell the truth, the facts. Who started the filibuster in recent times? The Republicans. In 1968, Abe Fortas, to be Chief Justice of the Supreme Court—Democrats' choice—he did not get the required two-thirds at that time. They need 67 votes of Members supporting Abe Fortas. Republicans started it.

Then we had a filibuster for a while against William Rehnquist, but it was dropped; Stephen Breyer to be judge on the First Circuit Court of Appeals in 1980; Harvie Wilkinson to be judge on the Fourth Circuit Court of Appeals in 1984; in 1986, Sydney Fitzwater to be a judge; in 1992, Edward Earl Carnes; in 1994, Lee Sarokin; and in 1999, Brian Theodore Stewart. In 2000, two Californians were filibustered by my Republican friends: Richard Paez and Marsha Berzon. When we hear the Republicans say, we have not been, ever, for a filibuster, just say, you are making it up. They are making it up. Here they admit to a filibuster. Here is Bob Smith, Republican Senator, March 7, 2000:

> . . . it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez.

So when the Republicans say there has never been a Republican filibuster, they are making it up. Of course there has been.

By the way, that was their right.

ORRIN HATCH:

> Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on the nomination.

Senator ORRIN HATCH at that time, I believe, was the chairman of the committee.

Again, Senator Bob Smith:

So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role.

Here we have a Republican Senator leading a filibuster against two of President Clinton's nominees and saying the filibuster is the constitutional role, and now we have Republicans saying: We have never, ever been involved in a filibuster.

I will talk about one of the nominees the Democrats have filibustered. I need to explain to my colleagues, and hopefully to others, how out of the mainstream some of these folks are who George Bush has nominated. Remember, we stopped 10. This is one of the 10.

Janice Rogers Brown—way outside of the mainstream to the extreme. This is one of her comments:

Where government moves in, community retreats, civil society disintegrates, and our ability to control our own destiny atrophies. The result is: Families under siege; war in the streets; unapologetic expropriation of property; the precipitous decline of the rule of law; the rapid rise of corruption; the loss of civility and the triumph of deceit.

This is what she thinks of our great Nation because we have a Government that does build the roads, that does help people out when they are in a bad situation, that may come in and say, yes, it is not a good idea to sell cigarettes to a kid who is 13. This is terrible. This is awful.

The ''precipitous decline of the rule of law; the rapid rise of corruption.''

The result is a debased, debauched culture which finds moral depravity . . . A virtue.

Now, I don't know about you, but I think the minimum wage is a part of America. Colleagues could decide they do not want to raise it for a couple of years. Right now, sadly, it hasn't been raised for a very long time, but I think most Americans think we are protected by the minimum wage.

This is what she said about the minimum wage, Janice Rogers Brown. I take a minute to say Janice Rogers Brown has served in the California Supreme Court since 1996. Her life story is amazing. It is remarkable. What I don't like is what she is doing to other people's lives. Her story is amazing, but for whatever reason, she is hurting the people of this country, particularly, right now, in my State. Of course, the President wants to move her over to Washington, DC, court.

She calls Supreme Court decisions upholding protections like the minimum wage and the 40-hour workweek ''the triumph of our own socialist revolution.'' I don't know or understand how anybody could think the 40-hour workweek or the minimum wage is socialism. She obviously does. She obviously would overturn it.

She accuses senior citizens of—and I hope everyone over the age of 55 will listen to what Janice Rogers Browns thinks of people over 55—she accuses senior citizens of ''blithely cannibalizing their grandchildren because they have a right to get as much free stuff'' as the political system permits them to extract. Free stuff? Is she talking about Social Security? That is not free. People pay into Social Security, and they deserve to get their monthly check. Free stuff. Senior citizens ''blithely cannibalize their grandchildren.'' I resent those comments as a grandmother. I would walk off a bridge for my grandson—and he knows it. I resent her painting of senior citizens.

That is why we held her up. That is why she is not sitting on the court today. Now, she may get there if my colleagues have their way. Let them explain why she would rule to overturn the minimum wage and the 40-hour workweek and overturn Social Security. It will be on their backs. We have stopped this woman from going further because of her decisions.

She declares:

Big government is . . . The drug of choice for multinational corporations and single moms, for . . . rugged Midwestern farmers and militants senior citizens.

She is back to that again. What is she afraid of—that some senior citizen will attack her? The crime rate among senior citizens is pretty low. Militant senior citizens? Give me a break. And we get accused of holding up decent people? This goes on.

I will go on with the story of Janice Rogers Brown—way outside the mainstream to the extreme. She argued a law that provided housing assistance to displaced elderly, disabled, and low-income people was unconstitutional. Her dissent said, because the city of San Francisco had a law that helped these disabled, elderly people, she said that ''private property . . . is now entirely extinct in San Francisco.''

What world does she live in? Has she tried to buy a house in San Francisco? It is the hottest real estate market in the country. But she says private property is entirely extinct. Let her go try to find some private property to buy in San Francisco. This woman is living on another planet, and we were right to stop her from getting on the bench. Whether it takes 60 votes or 51 votes to stop her, we are going to try to stop her.

Let's go on with more of her record. How about this? She said that a manager could use racial slurs against his Latino employees. Now, I say to every human being out there: What do we know about the workplace? We know people should feel OK about themselves in the workplace, that we work better together when we respect each other. Janice Rogers Brown said a manager could use racial slurs against his Latino employees—extreme in the main.

She argued that a message sent by an employee to coworkers criticizing a company's employment practices was not protected by the first amendment. In other words, you can't use your e-mail to write anything about your employer to other employees, although she said the corporations can say whatever they want any time of the day.

You know now why we have stopped Janice Rogers Brown. But we have more reasons, if you are not convinced.

Even when it comes to protecting shareholders, she is not fair. Anyone who owns a share of stock, listen to this one. She argued that a company could not be held liable for stock fraud by its employees who were offered a stock purchase plan since the stock was traded between third parties on the open market. So she comes out against the shareholders and protecting the companies.

Here is the amazing thing. Let me reiterate about Janice Rogers Brown. She serves on the California Supreme Court. There are six Republicans on the court—she is a Republican—and one Democrat. She dissented more than a third of the time. You would think she would have been happy to be with colleagues of her own party. She stood alone 31 times. And when you hear these cases, you will be amazed at where she stood. In other words, she went against five Republicans and one Democrat 31 times, and stood alone.

Let's check those cases out. How about this one: Rape victims; she was the only member of the court to vote to overturn the conviction of a rapist of a 17-year-old girl because she believed the victim gave mixed messages to the rapist. She stood alone on the side of a rapist, alone as a woman on a court that has six Republicans and one Democrat. Here is another case where she voted alone, the only member of the court to oppose an effort to stop the sale of cigarettes to children. It was a case where the supermarkets didn't want to be responsible. If somebody came up, maybe 13, maybe 12, maybe 11, maybe 14, I want a pack of cigarettes, she ruled against an effort to stop the sale of cigarettes to children. What planet is she living on now? If it was in the 1800s and we didn't know about cigarettes and what they do to you is one thing. But now is another thing. She stood alone.

I talked about senior citizens. I told you she is afraid of militant senior citizens. That is what she calls them. I told you that she said they cannibalize their grandchildren. Well, she was the only member of the court to find that a 60-year-old woman who was fired from her hospital job could not sue. This is the amazing thing she said, as she stood alone in this decision. A 60-year-old woman was fired from her hospital job. She said she has no right to sue based on age discrimination. This is her comment:

[D]iscrimination based on age does not mark its victims with a stigma of inferiority and second class citizenship.

Really? How do you think you would feel if you were fired because you were too old and suddenly that stigma was

attached to you and you lost your livelihood because maybe you had to work at age 60, as you waited for your Social Security check, which is a whole other issue. We hope we win that battle, too. But let me tell you, it makes it hard to win the battle of Social Security if you have on the court someone who calls senior citizens militant. It is going to be tough. That is why we have held her up.

By the way, her position in this case is contrary to both State and Federal law. This is one of the people we have stopped.

Just think about what we have been trying to protect the American people from. How about this? This is a woman who not only voted with a rapist against a 17-year-old girl, she was the only member of the court who voted to strike down a State antidiscrimination law that provided a contraceptive drug benefit to women. She was the only one. The State of California had required an equal health benefit to women and said: Your insurance will cover contraception because—guess what they decided. They decided it was better to avoid abortion, to cut down abortion, to make abortion rare. So they said they would give a benefit of contraception. She stood alone and tried to strike that down. Imagine.

She has been bad for workers. She was the only member of the court who voted to bar an employee from suing for sexual harassment because she signed a standard worker's compensation release form. Now, all of you probably know what that means. If you go for a job, you are usually covered by workman's compensation. But this woman had signed a waiver and said: I won't file a worker's comp claim. She didn't file a worker's comp claim, but she did file a sexual harassment claim because she was being sexually harassed. Every member of the court stood with the woman who was sexually harassed but Janice Rogers Brown. Six Republicans, one Democrat, and she stood alone again against a worker who was facing sexual harassment. The whole rest of the court agreed with the worker.

She was the only member of the court to find that a disabled worker who was the victim of employment discrimination did not have the right to raise past instances of discrimination that occurred. In other words, there was a disabled worker who filed a lawsuit, had a big story to tell about the past. She was the only judge to say: I don't agree with the worker; I agree with the company.

Here is another one. Janice Rogers Brown, bad on discrimination, the only member of the court to find that a State fair housing commission could not award certain damages to housing discrimination victims. She stood alone again.

Domestic violence: The Republicans want to put on the court a woman who stood alone 31 times against her fellow Republicans in cases like this—the only member of the court to find that a jury should not hear expert testimony in a domestic violence case about battered women's syndrome. We all know about battered women's syndrome, where a woman is beaten senseless by a boyfriend—in this case, probably a spouse—and later minimizes what he did to her. And the law in our State says it is valid evidence. If she reached out and she did something to prosecute this attacker, an explanation about battered women's syndrome will help her.

She was the only one who stood alone and said: I don't want to hear any expert testimony on this. She stood alone.

I ask unanimous consent for an additional 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Here is one. I want us all to remember the Enron case, a case where counties and cities and individuals were ripped off and went into debt—in our State, billions of dollars—by Enron, Enron who said they would deliver electricity and then made believe there was a shortage and jacked up the price billions of dollars. People went bankrupt and counties went bankrupt and the State went in the hole $9 billion. She was the only member of the court to find that a county could not sue a utility company for illegal price fixing that had substantially increased the county's costs for natural gas.

So here she is again hurting consumers, hurting local government, and standing alone in the process.

Here she is on a right to a fair trial. This is interesting. The courts have ruled over and over that when a criminal defendant comes into court before there is a verdict of guilt, you can't bring that criminal defendant in in shackles and in a prison uniform because you put in the jury's mind that the person is guilty. So you give the chance to the person to come in dressed as a civilian, then you find out the details and you find them guilty or innocent.

In this case, she was the only member of the court to find nothing improper about requiring a criminal defendant to wear a 50,000-volt stun belt while testifying, the only member of the court. That is how outside the mainstream she is.

If we could put back up the 208-to-10 number while I give the rest of my remarks, that would be fine.

What do we have here? We have a circumstance that 10 times out of 218, Democrats believed the President's choices were really harmful to the American people, would really be harmful to them, whether it is their minimum wage, whether it is their 40-hour workweek, whether it is the ability of all of us to protect our kids from cigarettes, whether it is to protect victims of violence, it goes on and on. You have seen just a handful of the cases.

So when somebody says to you: Well, those Democrats, they are blocking everybody—and if you listen to my Republican colleagues, that is what you would think—no, we have blocked 10. We have approved 208. In reality, now the number is 5, but circumstances have changed. I will lean over backwards to be fair and say it is 10. That is 95 percent. In each case of these 10 you will find out why we have done it. It is because these nominees are so outside the mainstream that they will hurt the people we represent.

Why is it important to say that a judge needs to have a 60-vote threshold to end extended debate? It is because it is a lifetime appointment. The President is supposed to work with the Senate before choosing a nominee, which he has not done, not on our side of the aisle. I tried hard with Mr. Gonzales when he was White House counsel. I met with him on numerous occasions, and he said: Senator BOXER, give me some names of Republicans. I gave him so many names of good Republicans for the Ninth Circuit.

I said: Look, these people are mainstream Republicans. They will fly right through here.

No, they couldn't be bothered with that. I know Senator FEINSTEIN has done the same, given them the names of people who would be quite acceptable. Who do they send us? People such as Janice Rogers Brown, people who are so outside the mainstream that we don't deserve to be here if we don't raise the arguments.

Now, what you are also going to hear is the Republicans have called this the nuclear option. They have renamed it the constitutional option. That is humorous—if you want to find humor in any of this. That is like saying that clock over there is a table. I suppose if I told you that often enough, maybe you would believe me that once upon a time that clock was a table. But the clock is a clock and the nuclear option is the nuclear option. It was named by the Republicans. But it is not popular out there because of the connotation, so they are trying to change it.

The ''constitutional option'' is the reverse of the truth. In the Constitution, it says nothing about guaranteeing a vote. It says the Senate shall write its own rules. Well, the Senate wrote its own rules and the Senate said it takes 67 votes to change our rules. Our colleagues don't have 67 votes to change the rules, so they are trying to do this sneaky parliamentary move to change the rules. What a way to govern because you didn't get 100 percent of what you want; you got 95 percent. I don't feel sorry for any President who gets 95 percent of what he wants.

I am telling you, Democratic or Republican Presidents have to work with the Senate and the House and they have to compromise. So it is very important to note that when you hear the Republicans saying all we want is the constitutional option, you say, where in the Constitution does it give you this right? Nowhere.

Then they will say this: Everybody deserves an up-or-down vote. Everybody. I don't know how many times we have given Janice Rogers Brown a vote. We gave Janice Rogers Brown a vote here once, and Priscilla Owen got a vote four times. Yes, the vote required 60 as the threshold to end extended debate, but they got their vote. Now, when you go back to Bill Clinton, 61 times his nominees got stuck in committee; 61 of Bill Clinton's nominees never got to have a cloture vote. They never got a vote. They were pocket-filibustered in committee. We have never done that. Every single Bush nominee who has come to the floor has had their vote. I know of none who have not had a vote. They just didn't meet the 60-vote threshold.

That is the second thing you are going to hear: All we are asking for is an up-or-down vote. They had that, but they had to meet the 60-vote threshold to end extended debate. Why? Because they are lifetime appointments, we are checking and balancing the power of the executive by saying don't send us people such as Janice Rogers Brown, who is so out of the mainstream. She sees a military uniform on every senior citizen and says senior citizens want to cannibalize their grandchildren. Excuse me? She says there is no private property left in this country. That is outside the mainstream to the extreme.

If we Democrats have the courage of our convictions to say no 10 times, give us a little respect; don't try to change the rules in the middle of the night. Do what the Democrats did in the 1930s. Think how good you would feel if you stood up to the President of your own party and said: Mr. President, we will follow you anywhere; we think you are terrific, and we support you in Iraq and on privatizing Social Security, and we support you in your huge deficits; we support you in these trade agreements, we support you this way and that way; but we don't think packing the courts is a good idea. Therefore, we are going to join with the Democrats and say no to this plan. It is very dangerous.

I want people to understand. The point of my discussion here today is to put a human face on these judges. This isn't about just numbers, although the numbers tell a heck of a story. The Republicans get 208 and not 10 and they are crying and doing this in a sneaky way, without getting 67 votes to do it. That alone is wrong. It is not playing fair, it is not the American way, it is not playing by the rules. The American people want to know it. If you want to fight with us, we will have a debate, but stick with the rules. Get your 67 votes so you can have the arrogance of power. Get your 67 votes so you can tread all over us. But don't do it in this sneak attack, challenging the Parliamentarian, and then having the Senator in the chair say, you know what, it is over; no more filibusters on judges.

If you do that, you are hurting the American people. Some people say it is about the traditions of our country, the right to unlimited faith, freedom of speech, ''Mr. Smith Goes to Washington,'' I will stand on my feet, that is my God-given right for my State to do that, and that is all true. But for me personally, as a Senator from the largest State in the Union, with 36 million people, I want to protect them. I want to protect the 17-year-old who got raped and not have her come before Janice Rogers Brown and have her stand alone and rule against her. I want to protect the worker who wrote a little e-mail to another worker and said I don't think the boss is being so fair, what do you think? They said we had 2 weeks vacation and now they are counting that day off as one of those days and it is not right, and have to be before Janice Rogers Brown who says the corporation can write anything they want, but you are too lowly. I don't want to have the American people subjected to a judge such as Janice Rogers Brown, who said any city that helps a disabled elderly person get housing is wrong and is destroying private property. I don't want to have my kids in a circumstance where they have to see their grandmother called a ''cannibal.'' I don't want to have a judge who overturns Social Security, who overturns the minimum wage, who overturns the 40-hour workweek.

The point is, I want to protect the people I represent. So if I don't stand up strongly against a judge such as her, I don't deserve to be here. The people of my State would be upset with me.

The right I have in this magnificent Senate today is the right of the minority. We have 45 Democrats here and 55 Republicans. I am counting JIM JEFFORDS as a Democrat for the purpose of discussion because he votes with us. So it is 55–45. JIM JEFFORDS is an Independent, but he votes with us. By the way, in the recent polls, the Independent voters are for the filibuster; 54 percent are for the filibuster. I want to protect the people I represent, because Janice Rogers Brown has been nominated for the DC Circuit Court, meaning one step below the U.S. Supreme Court. So she is going from the California Supreme Court, where she has dissented in a third of the cases, in a court that has—and you may be interested in this—six Republicans and one Democrat. Janice Rogers Brown has dissented 31 times. This is how out of the mainstream she is. I think it is important to note.

In the DC Circuit, there is a whole other area of the law that was protested—your right to breathe clean air, your right to drink clean water. This is important for us because environmental laws protect our health, and if we have someone in the court there who doesn't think Government has any right—and she obviously doesn't—to do anything because—what is it she said about Government? If you could put that chart up again. Whenever Government gets involved, this is what she predicts happens. We will show you the quote. Obviously, she doesn't think there is anyplace for Government because she says: ''Where government moves in''—I would say in a circumstance such as the Clean Air Act, where we tell folks you have to make sure the air is kept clean—''community retreats, civil society disintegrates, and our ability to control our own destiny atrophies . . . families are under siege.''

I don't know what country she is living in. She says: '' . . . unapologetic expropriation of property; the precipitous decline of the rule of law; the rapid rise of corruption, the loss of civility and the triumph of deceit.''

What an optimist. Why are we promoting someone who has this negative view of America? Doesn't she know this is a government of, by, and for the people? That is what we are about. Do we make mistakes sometimes? Yes. Do we have to make sure we fix our laws so they work better? Yes. But to say whenever Government moves in, community retreats, I wonder what she thought of the highway bill we just passed. She probably thinks it is awful because we take the gas taxes and we build highways, and we build transit systems because we think it is important for economic growth. But she says when Government moves in, community retreats, civil society disintegrates, and the result is families are under siege and there is war in the streets.

So, yes, I am here to say I did stand up against Janice Rogers Brown, and whether she has to meet a 60-vote threshold, which she has been unable to get, or a 51-vote threshold, I will be fighting against this nominee because she is way out of the mainstream. She walked away from judges in her own political party and stood alone 31 times. That is why we have said to the President: Why don't you talk to us about these nominees? We could have told you this one would have trouble. We would have given you the names of some fine conservative Republicans. But not someone who has this wonderful life story, but has a view of America that is amazing.

Here is what she once said in a speech:

> Most of us no longer find slavery abhorrent. We embrace it. We demand more. Big Government is not just the opiate of the masses; it is the opiate.

Her point is we are slaves to our Government. Well, again, I don't know what country she is living in. We are not slaves to our Government. We run the Government. We get to vote the people we want in and we get to vote them out. If we don't like what they do, we will let them know. She is out of step, calling senior citizens militant, saying they are taking all of the goodies and free stuff. She doesn't like the minimum wage, doesn't like the 40-hour workweek, doesn't like senior citizens. She never protected women. She doesn't protect our children. She doesn't protect our consumers. She

doesn't protect our workers. Why do we want someone such as that to get a promotion?

Therefore, the Democrats have said to the President, through our voice in the Senate: Send us someone else and we will be delighted to work with you. We have worked with you 208 times, Mr. President, and 10 times we said no.

We said you are out of the mainstream, and the response of a 95-percent success record by the Republicans—and a few are not going along with it, and bless them for that—is: We will take away your right, Democrats, to stand up for the things you think are important. We will take away your rights by changing the rules in the middle of the game, by skirting a 67-vote requirement for changing the rules. We will do it.

There is politics being played. The majority leader talked about this in a speech in a political way, which was wrong. He has not agreed to a compromise. Senator REID has offered several. The fact is, people have to know what is at stake.

I hope everyone within the sound of my voice will know the reason why Democrats have stood so firmly against the nomination of Janice Rogers Brown. It is because we care about the people we represent, and we care about mainstream judges, and we do not want to see such a radical individual get this position and begin to whittle away at the rights our people have won, at the fairness our people have won.

This is very important. This vote is going to change the Senate forever. But more than that, it will impact the lives of the people. Changing the Senate, changing tradition, changing the role of the minority to make a difference, to be heard, freedom of speech—these are all important. But at the end of the day, it is about our kids, our grandkids, our seniors, our families, our workers, the air we breathe and the water we drink, and this is all connected to the judges. This is not disconnected. This is the brilliance of our Founders who said the judicial branch, the judges, shall make sure that everything we do in the legislative branch and in the executive branch is constitutional, is right, is reasoned.

If we have people on the bench who believe that anything we do disintegrates our family; that anything we do, such as the highway bill, for example, turns into an expropriation of property and the rapid rise of corruption and the loss of civility and the triumph of deceit—this belongs somewhere else, not in the courts.

Mr. President, I thank you for your patience. I thank my staff who has done an extraordinary job for me in analyzing these decisions. This is not easy to do because you have to go line by line. I know the Presiding Officer knows these cases can be very long and confusing. My staff are attorneys. They are also very smart attorneys, and they were able to get to the point of these cases and bring home this message to people that when we fight against 10 judges out of 218, it is for a reason. It is not because we want to be difficult. It is because we believe when the Constitution says the Senate has the right to advise and consent on judges, it does not mean when the President feels like it. It does not mean between the hours of 11 and 1 on Wednesday. It means every time he sends a nomination to us, he should have, in fact, sought the advice and consent of the Senate.

We have a big debate coming up tomorrow. I just wanted to give a little reality check so people understand for what we have been fighting.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask consent I be recognized as in morning business and be allowed to speak as long as necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL FILIBUSTERS

Mr. DURBIN. Mr. President, 51 years ago today the Supreme Court, just across the street from the Senate Chamber, issued one of its most famous rulings in the history of the United States of America. The ruling was Brown v. Board of Education. It may have been one of the most courageous decisions ever issued by the Court. It rejected the cruel legal fiction of separate but equal and said that in the United States of America there would be no second-class citizens.

What an amazing victory for justice. But for some time, in some States, the Brown decision remained a victory on paper only. In much of the United States, in the Deep South, the Brown decision was met with massive resistance. Governors refused to obey the court ruling. Three years after that court decision, 48 years ago today, on May 17, 1957, 36,000 people gathered in Washington, DC, for the first march on Washington.

This is a photo of that march. We all know about the famous 1963 march, but the 1957 gathering was really the forerunner to that 1963 march. In those days, in 1957, it was known as a Prayer Pilgrimage for Freedom in Washington, DC.

Take a look at some of the people who gathered on that day 48 years ago. Dr. Martin Luther King, 29 years of age, was among those who gathered to speak. His leadership had been tested by the crucible of the Montgomery bus boycott. His remarks at the 1957 gathering were not nearly as well known as his immortal ''I Have a Dream'' speech in 1963, but they are powerful and worth repeating on this the 40th anniversary of the day he first delivered them. Here is how Dr. Martin Luther King opened his remarks on that day. He said:

> Three years ago the Supreme Court of this nation rendered in simple, eloquent, and unequivocal language a decision which will long be stenciled on the mental sheets of succeeding generations. For all men of goodwill, this May 17th decision came as a joyous daybreak to end the long night of human captivity. It came as a great beacon light of hope to millions of disinherited people throughout the world who had dared only to dream of freedom.

Dr. King went on to say:

> Unfortunately, this noble and sublime decision has not gone without opposition. This opposition has often risen to ominous proportions. Many states have risen up in open defiance. The legislative halls of the South ring loud with such words as 'interposition' and 'nullification.'
>
> But even more, all types of conniving methods are still being used to prevent Negroes from becoming registered voters. The denial of this sacred right—

Dr. King said—

> is a tragic betrayal of the highest mandates of our Democratic tradition.

But Dr. King did not stop with this sad commentary on what he saw in America. He delivered his prescription for progress when he said:

> And so our most urgent request to the president of the United States and every member of Congress is . . . Give us the ballot, and we will no longer have to worry the federal government about our basic rights.
>
> Give us the ballot and we will no longer plead to the federal government for passage of an anti-lynching law; we will by the power of our vote write the law on the statute books of the Southland bring an end to the dastardly acts of the hooded perpetrators of violence.
>
> Give us the ballot, and we will transform the salient misdeeds of bloodthirsty mobs into the calculated good deeds of orderly citizens.

What a speech. Not nearly as heralded as his speech a few years later, but certainly what Dr. King said that day still touches the hearts of every American who dreams of the ideals of this great Nation.

Now, 51 years later, it is hard to imagine the way Brown v. Board of Education was received. Most Americans look back with pride to the end of segregation in our public schools. We regard it as a great achievement that 182 years after our Nation was founded, a new generation of Americans had the courage and conscience to confront the bitter legacy of slavery, the challenge that our Founding Fathers could not resolve with all their wisdom. These people had the courage to confront segregation and voting discrimination.

Many Americans didn't support Brown v. Board of Education, not in 1954, not in 1967. That is why 36,000 people gathered on the Mall 38 years ago today. Many southern States flatly refused to obey the Brown decision. The same ruling that Martin Luther King praised as a joyous daybreak, others denounced as judicial activism. Judicial activism—that is what they said

about a decision to integrate America's schools. The courts had gone too far. Many argued: Leave it to the States to decide; this is not a decision to be made at the Federal level; certainly it is not a decision to be made in that Court across the street; those judges went too far, they argued in Brown v. Board of Education.

Does this sound familiar? That is exactly what we are hearing today. The words in opposition to Brown v. Board of Education echo through this Senate Chamber and the Halls of Congress even today.

Sadly, we may be on the verge of a constitutional confrontation over the Senate's constitutional advise and consent responsibilities regarding Federal judges. To listen to many on the far right, you would think it was events only in the last few years that have pushed us to the brink, but that is not the case.

Earl Warren of California was Chief Justice of the Supreme Court during the momentous Brown decision. The John Birch Society began putting up ''Impeach Earl Warren'' billboards in 1961. Later they tried to impeach William O. Douglas, one of the most outspoken and eloquent Justices on the Court. The far right tried to impeach Frank Johnson. Who is Frank Johnson? An interesting story.

Just a few years ago I joined JOHN LEWIS—he is a Congressman from Atlanta, GA, and what he does each year is invite Members of Congress, Democrats and Republicans, to come back down south and visit Montgomery and Birmingham and Selma. JOHN LEWIS is the perfect guide for these visits because JOHN LEWIS was there on that bridge in Selma, marching toward the capitol so that African-American people would have the right to vote. Because this young man had this idealism to participate in that march and the freedom rides, he had his skull cracked at the Selma bridge. It almost killed him.

I asked JOHN LEWIS, tell me about the Federal judge, Frank Johnson, that judge in Alabama.

He said: We wouldn't have had a civil rights movement, we certainly would not have had that parade, demonstration in Selma, without the courage of that man, Frank Johnson. Frank Johnson, a Republican appointee to the Federal bench, stood up and said: Yes, these Americans have the right to march and speak.

It was really unpopular. A lot of people hated Judge Johnson because of it. He was persona non grata in his whole community. His family was harassed. He did courageous things that permitted the Montgomery bus boycott and the freedom marches across Edmund Pettis Bridge. For that, the far right, who accused him of judicial activism, wanted him impeached. They didn't agree with his decision. They said he went too far.

Since 1961, 8 of the 12 Federal impeachments or near impeachments in Washington have involved our judges. The far right has been demanding that the Senate rein in what they call ''activist judges'' for decades. What is different now is what used to be extreme, discordant voices just heard in muted tones, now own great microphones in this democracy. They have called on their followers in Congress to follow their agenda.

Sadly, they have many allies in high places—allies in the Senate who are willing to break the rules of the Senate to change the rules of the Senate so that the far right can pack the Federal courts with judges more of their liking, judges who are not activist by their definition.

Today their allies in the Senate are willing to use the nuclear option to destroy the filibuster and to really destroy our system of checks and balances.

The obvious question is, in a body of 100 men and women where counting votes is the most important thing: Do they have enough allies? For the sake of our democracy, I pray they do not. We hope there will still be a majority of Senators who love this country, love this Constitution, and love this Senate enough to preserve the Federal courts as a fair and independent branch of Government. This should not be an exercise of power by the extreme part of any political party.

One of the men I respected most in the world, probably the man who is responsible for my standing here today more than any others, was a man named Paul Douglas, who was a Senator from Illinois from 1948 to 1966. I will never forget that day in February of 1966 when he agreed to hire me as a college student to work in his office across the street in what is now the Russell Senate Building. It was one of the most exciting things I had ever done, a student from Georgetown University from East St. Louis, IL, was going to work in the office of a Senator.

I would have done anything they asked me to do, and they asked me to do a lot of things. But the most exciting thing I did was each night Senator Douglas, who had been gravely wounded in World War II as a marine in the South Pacific, insisted on signing all letters. With one arm, he needed help, and that's where I came in. I would sit next to him on a chair next to the conference table with a big stack of letters Senator Douglas was sending back to Illinois, and as he signed them, I would pull each letter away. That was my job as an intern.

It was an exciting job. It sounds boring, I'm sure. But this man who had done so much with his life would sit there as he signed the letters and answer my questions, and I had plenty of them, and talk about his life and the things that he had done.

He talked about the 1948 Democratic Convention, when civil rights really became the focal point of a national debate, when he grabbed the standard of the Illinois delegation at that convention and paraded around the hall leading a demonstration in favor of a mayor from Minneapolis named Hubert Humphrey, who said that we had to come out of the shadow of States rights into the bright sunshine of human rights.

Paul Douglas was as committed to civil rights as any man I ever knew. He helped lead the fight in the Senate in the 1950s and much of the 1960s to pass much of that historic legislation. He ran smack dab into the filibuster, the filibuster that was used by some Senators, primarily from the South, to stop the civil rights legislation. It was almost unbreakable. It took 67 votes in that day to stop it. You remember the filibuster? That is the procedure in the Senate where any Senator can stand at the desk here and speak as long as their voice and bladder will allow, stand up there and argue for all the principles and values they believe in. You saw it, Jimmy Stewart, ''Mr. Smith Goes to Washington.'' It is still in the Senate books. It is still the rule. It has been here for over 200 years.

Some people say that is crazy. In this age of technology, why would we want this body to be dragged down by one Senator who wants to talk?

But that is what the Senate is all about. That is why we are different than the House of Representatives. I served over there with pride for 14 years. I love the House of Representatives. But they are a different institution, under our Constitution. If you have a large State with many people, you will have more Congressmen. We have quite a few people in Illinois, 12.5 million; 19 Congressmen. Think of all the Congressmen from California. But then come across the Rotunda, how many Senators from California? Two. How many from South Dakota? Two. How many from Illinois? Two. How many from Rhode Island? Two. Because the Founders of our Nation said we will have one branch of the legislature which represents the population of America, but the Senate is different.

The Senate will give every State a chance. The Senate will allow the smallest States the same number of votes as the largest States, and within the Senate we will recognize and respect the right of any Senator from any State, large or small, to engage in debate. We will protect that Senator's right, even if many people think that is not a wise position the Senator is taking, because we want to protect the rights of the minority. That is why the Senate is different.

So Paul Douglas, when he argued the civil rights bill, ran smack dab into the filibuster. One would think, as much as he hated segregation and as much as he hated Jim Crow laws, that Senator Douglas and many other progressives, Democrats and Republicans, would have tried to eliminate the filibuster which held up the civil rights bill. But they did not. Why? Because that procedure is critical to what this institution

is all about. Doing away with the filibuster does away with the protection of minority rights. It changes the dynamic.

What happens when we have a filibuster? In order to stop the filibuster, an extraordinary majority of the Senate must come forward. Now it is 60 votes. So if a Senator stands and says, this is unfair and unjust and I am going to speak at length to tell you why, what does it mean? Not only that he is a person of conviction, but it means to resolve that difference, to try to move on from the filibuster, people of good will have to meet and talk and come to an agreement. The filibuster forces compromise, the filibuster forces bipartisanship, which the Senate is all about.

That is what has happened over the years. Those who were engaged in the civil rights debates played by the rules and sometimes lost by those same rules, but they won in time. Four months after the prayer pilgrimage that I mentioned in 1957, 4 months after 36,000 people gathered at the Lincoln Memorial to protest what they considered the slow progress in America to deal with segregation, 4 years after that day, Congress passed the 1957 Civil Rights Act, the first Federal Civil Rights Act since the days after the Civil War. After that came a 1960 voting rights bill, the landmark Civil Rights Act of 1964, the Voting Rights Act of 1965.

Those advances were not won by impatient Senators breaking the rules. They were won by courageous Americans who persevered, who marched on Washington, who marched on Selma, AL, who dared to register and vote when that basic act of citizenry could cost you your life.

Near the end of his speech 48 years ago today, Martin Luther King told the thousands of people gathered at the prayer pilgrimage at the Lincoln Memorial:

> We must work passionately and unrelentingly for the goal of freedom but we must be sure that our hands are clean in the struggle.

What Dr. Martin Luther King was saying in the dark hours of Brown v. Board of Education, when it appeared there was little chance that the Congress would respond, ''your hands must be clean in the struggle.''

That, my friends, is the debate we will face when it comes to changing the Senate rules. It isn't just a matter of achieving our goals; it is how we achieve our goals. The ends do not justify the means. Think of it: Dr. King, at the age of 29, having lived through the rank discrimination that was prevalent in many parts of America, still reminded those who were listening, play by the rules, keep your hands clean in the struggle. What he was telling us was that no matter how passionately we believe something, we are not entitled to rig the rules to achieve the outcome we want. That is not how it works in society. It is not how it works in families. It certainly is not how it works when you follow the rule of law.

There always will be some who reject court decisions they do not agree with as ''judicial activism.'' There will always be some who want to restrict the independence of judges and put their own stamp on the judiciary. There will always be impatient people who want to rig and change the rules or short circuit the rules of democracy. As Senators, we have taken an oath to defend our Constitution. It is our sacred responsibility to tell them no.

This is not the first time in our Nation's history that a President of the United States wants more power. It is a natural thing in government, and the Founding Fathers who wrote this Constitution understood it. They knew that if there was no check on the judiciary, judges would be too powerful. They knew if there was no check on the Congress, the Congress would take too much power. And they certainly knew that an Executive like a President would always want to increase his power over the people. That is what led them so many times to create the checks and balances which have resulted in what we enjoy—the longest lived democracy in the history of the world.

President Thomas Jefferson, 16 years after the Constitution was written creating an independent judiciary, Thomas Jefferson, the man who wrote the Bill of Rights, was reelected as President of the United States in 1805, said to the Senate, which met on the first floor of this building not far from where we gather, said to the Senate: You are a majority of my party. You know that Supreme Court—which is in the same building—is a court which has ruled against us and sees the world quite differently. Thomas Jefferson said to the Senate: Join me in impeaching Samuel Chase. Take this Justice off the Supreme Court and let all of these judges know if they do not see the world in the terms that we believe it should be in, they will be removed from office.

Understandably, Jefferson was frustrated by the judges who were not listening to him and following his beliefs. So he came to his party in the Senate and said: Join me. And they said: No, Mr. JEFFERSON. We are loyal to you and your party, but we are more loyal to the Constitution, and the Constitution insists the judiciary must be fair and independent and balanced. And they said no.

In more recent times, many can recall that Franklin Delano Roosevelt, one of our greatest Presidents, reelected to a second term, frustrated by the Supreme Court across the street which had killed his New Deal legislation, said: It is time to do something about the old men on the Court. He came to this Chamber, this Senate, and said to the Democrats of his own party: Help me change the judiciary. We need to put more Justices on the Supreme Court to overcome those old men. The Democrats and Republicans in the Senate said: No, Mr. President. We respect you. We support your goals and your programs. But the Constitution is more important than increasing your power as a President over the judiciary.

And here we are today in the year 2005, coincidentally at the beginning of President George W. Bush's second term. And what do we hear from this President? He comes to this Chamber, to the Senate, and says to Democrats and Republicans alike: I want more power over the judiciary. I want to do something about those activist judges. And I resent the fact the Senate has not approved every judicial nominee which I have sent for approval.

Which takes me to my last chart. For those following debate, for those who want to know what the score is, it is 208 to 5 or maybe 208 to 10, depending on your count. But more than 95 percent of the nominees sent by President Bush to the Senate Chamber for approval have been approved. Mr. President, 208 to 5, and we are facing a constitutional crisis and confrontation because this President cannot get 5 judicial candidates he insists on?

One wonders if this President, coming to this Senate, would hear the echos of what Thomas Jefferson heard or Franklin Roosevelt heard where his own political party would stand up and say: Mr. President, we respect you, but we respect the Constitution more. We respect the Senate more. Sadly, few of those voices have been raised.

Within a matter of hours or days, we will face this historic constitutional crisis. I believe it comes down to some very fundamental principles. Neither this President nor any President should be allowed to change the rules in the middle of the game, to take away the right of extended debate on judicial nominees. Neither this President nor any President should be allowed to change the checks and balances which have given us our lifeblood as a nation for over 200 years. Neither this President nor any President should make a lifetime appointment of someone to a Federal court who is not prepared to take on that awesome task and to dispatch it with the kind of integrity and skill and commitment to the values of America we must insist on.

So in a short period of time, there will be a test in this Senate the likes of which it has never seen. We almost have to go back to the Civil War to recall a debate of this proportion. I sincerely hope my colleagues will rise to this challenge. I sincerely hope they will understand there is more at stake than whether a President has a good press release one day, whether some supporters cheer them on for standing up for 5 or 10 nominees, who understand that what we are debating is, sadly, going to be viewed for generations as a test of whether we are truly committed to preserving and defending the Constitution of the United States.

I still have great hope. I still have great hope that enough Republican

Senators will stand up to this President as Thomas Jefferson's party stood up to him, as Franklin Roosevelt's party stood up to him and said: Mr. President, we respect you, we believe in your program, we will support you, but first we have to be guided by our Constitution, and we cannot increase your power in this Government at the expense of the balance that was created by the wisdom of our Founding Fathers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak such time as I may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I further ask that following my remarks, the Senator from Louisiana be recognized for her remarks.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, it is not uncommon for Senators to stand in the Senate and tell their colleagues and the American people that an upcoming vote is one of the most important the Senate will ever take. We are the masters of hyperbole in this body, forever standing on the precipices and poised on the brink of momentous decisions.

But today, I think most will agree with me: We truly are at such a moment. The Senate is on the verge of making a decision with potentially enormous consequences for this institution and for the country and the people we serve. At stake is not just the fate of a handful of judicial nominations or of a future Supreme Court nomination, as important as they may be. No, the decisions made this week will resonate far beyond this Chamber and far beyond the current controversy.

I will speak today about how we arrived at this moment of great peril and how we might step back from the brink. I will speak about the consequences of the question that will apparently be put before the Senate prior to our next recess. I will speak today about principle and about power.

While they do not always attract a lot of public attention, traditional nominations are very important. We all know that. The judicial branch is a coequal branch of Government. The interpretation and enforcement of the laws we pass in Congress depend greatly on the men and women who serve as judges, and, of course, Federal judges serve lifetime appointments. Decisions made by the President and the Senate on judicial nominations have a long-term and long-lasting impact on the Nation.

Disputes over how the Senate should exercise its constitutional power of advice and consent on such nominations are as old as the Republic itself. Nominations have led to some of the most historic and divisive debates in this body, dating back to efforts to pack the courts with Federalist judges in the waning days of John Adams' Presidency. More recently, we had debates about Franklin Delano Roosevelt's court-packing plan in the late 1930s, the Abe Fortas nomination in the late 1960s, and Robert Bork in the late 1980s, to give a few examples.

Debate, even bitter partisan debate, over judicial nominations is nothing new. What is new is that the Senate is now poised to break with its rules and traditions. For the first time, the desire of one side to win nomination battles has become so intense and so unyielding that it threatens the very rules by which this Senate has operated for centuries.

In all of the previous controversies I have mentioned, which I think most serious students of Congress and the courts would agree were more significant than the current debate over a handful of circuit court judges, the rules of the Senate have allowed the battles to be fought fairly.

Only today, apparently, must those rules give way so one side can have its way. The majority leader and those who support his extraordinary plan to change the Senate rules by fiat seek to cloak their grab for power in the source of our Nation's loftiest principles, and that source is the Constitution.

This is not just a silly public relations effort to change the name of their plan from the nuclear option—the term coined by the majority leader's predecessor—because that term obviously fares rather poorly in the public opinion polls. It is actually a cynical effort to distract the public from the extraconstitutional nature of the plan by invoking the Constitution itself.

In the last Congress, as in this one, I served as the ranking member of the Senate Subcommittee on the Constitution. The subcommittee held a hearing in May 2003 with the grandiose title: ''Judicial Nominations, Filibusters, and the Constitution, When a Majority is Denied Its Right to Consent.'' The hearing was certainly interesting and provocative. I was there the whole time. No one made a convincing case that there is any such right in the Constitution anywhere.

Article II, section 2 spells out the Senate's role in nominations. It states, in relevant part, that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States.'' That is it. That is all it says. Some have managed to find in those few words a requirement that the Senate give all judicial nominees up-or-down votes. Even if someone isn't a strict constructionist, I can't for the life of me understand where they get that from. Where is it? Where is it in the language? Where is it in the Constitution?

It may be the policy they prefer, but it is not a constitutional argument. It is not a constitutional requirement. In fact, the only language in the Constitution that directly addresses the issue we are faced with today is the following from Article I, clause 5:

> Each House may determine the Rules of its Proceedings . . .

The Senate has determined its rules, and its rules also provide the means for changing the rules, of course. The Senate is now being asked to change the rules by breaking the rules. There is no principle involved here. There is just power.

It is a shame that those who support the President's nominees have inflated what is essentially a political dispute to a constitutional debate. For those of us who take the Constitution seriously, it is jarring to hear colleagues suggesting that one is violating one's oath of office by voting not to end debate on a nomination.

As my colleagues know, I spent 7 years in this body fighting to pass a campaign finance reform bill. We had a majority here on that bill after a couple of years. That wasn't the issue. For years that effort had the support of a bipartisan majority of Senators, but it was stymied by filibusters. Senators who supported reform had many spirited, sometimes even bitter, debates with Senators who opposed our bill. But never did we contend our opponents on campaign finance reform were violating their oath of office by using every tool available to oppose a bill with which they strongly disagreed.

The Constitution does not prohibit opponents of a judicial nominee—or any nominee, for that matter—from using a filibuster to block a final vote on the nominee. The majority does not have a constitutional right to confirm a nominee, and the nominee has no constitutional right to a vote. As the senior Senator from West Virginia said the other day: The Senate has often denied consent to a nominee in the past by simply refusing to schedule a final vote.

I have not always supported those actions, but I have not pretended they are unconstitutional.

If the arguments being advanced today by the Republican majority are correct, then the Republicans acted unconstitutionally in 1995 when they defeated the nomination of Henry Foster to be Surgeon General by using a filibuster. They violated the Constitution when they required cloture votes before ultimately confirming Stephen Breyer, Rosemary Burkett, H. Lee Sarokin, Richard Paez, and Marsha Berzon to circuit court judgeships, David Sacher to the Surgeon General's office, and Ricki Tigert to the FDIC, Walter Dellinger to the DOJ's Office of Legal Counsel, and the current Governor of Arizona, Janet Napolitano, to be U.S. Attorney. If the arguments being advanced today are correct, they violated their oaths of office when they forced the ambassadorial nomination of Sam Brown to be withdrawn because they refused to end debate on his nomination.

These are just the cases where a cloture vote was required to get a nomination through. I won't even start on the list of nominees who never even got a hearing or a vote in the Judiciary Committee or any kind of debate on the floor if they cleared committee. But there are dozens of them. Wasn't the majority denied its right to consent just as much in those cases? Is there any meaningful constitutional difference between a filibuster on the one hand and on the other hand a hold on the Senate floor or a wink and a nod between a committee chairman and a Member who just doesn't like a nominee? One could certainly argue the denial of consent by failing to schedule a hearing or a vote in committee is on even less firm constitutional ground than a filibuster because it allows just one Senator, the chairman of Judiciary Committee, to make the decision that the Senate's consent on a nominee will be withheld, whereas if all the Senators vote, a filibuster can be sustained only with 41 or more votes.

But there is no real argument that filibusters of judicial nominations are unconstitutional, just as blocking nominations in committee is not unconstitutional. There is no principle here that justifies eliminating the filibuster for judicial nominees who have lifetime appointments but leaves it intact for nominees to the executive branch who can only serve until the term of the appointing President ends at the latest.

There is no principle that can distinguish judicial nominations from legislation, which may also be passed by a majority, but can be amended or revoked by a majority in the same or later Congress as well. Again, the effort we are facing here is not based on principle, it is based on power. The lack of a constitutional basis for it is made even more clear by the specific plan that the majority leader spelled out in his press release last week.

He intends, according to that release, to ''seek a ruling from the Presiding Officer regarding the appropriate length of time for debate on such nominees.'' Seeking a ruling on how long we should debate? Surely the Presiding Officer cannot make that ruling on constitutional grounds, the idea of a constitutional time limit. What is the constitutional basis for ruling that the Senate can debate a nomination only for a particular length of time? Is the Presiding Officer going to opine that it is constitutional to debate a nomination for 100 hours, but unconstitutional for us to have 101 hours of debate? That would be absurd.

No, it appears that instead of following the existing precedents of the Senate, which state there is no dilatory rule except after cloture has been invoked, the Presiding Officer will just announce a new rule and the Senate will then debate and vote on an appeal of that ruling. If this happens, the rules of the Senate will be changed by fiat, by breaking the rules—not principle, power, the power of majority rule.

The Constitution did not set up the Senate to be a majoritarian body. That is why renaming the nuclear option as the constitutional option is so wrong. The Constitution allows citizens from smaller States who could be easily outvoted in a majoritarian legislature such as the House to have the same power in the Senate as citizens of larger States. This is not a minor provision, as the Presiding Officer knows. The Founders clearly didn't think so because—this is amazing—they made it the only provision in the Constitution that cannot be amended. No State can give up its equal representation in the Senate without its consent. You can't do a constitutional amendment to change that. They designed the Senate to be an important bulwark against majoritarian pressure.

The Senate rules from the very beginning, of course, have granted protections for the minority. There was no cloture rule at all until this century. The rule didn't cover nominations until 1949. While the cloture rule has changed over time—sometimes offering more protection to the minority and sometimes less—those rule changes have always been accomplished in accordance with the Senate rules until now, until the demand for power trumped principle.

The Framers intended the Senate to act as a check on the whims of the majority, not to facilitate them. I will not pretend the Senate has always been on the right side of history. At times, most notably during the great civil rights debates of the 1950s and 1960s, Senators used the powers given them to block vital, majority-supported legislation. But notwithstanding those dark moments, the Senate has also served throughout the history of this Republic as a place where individuals with different beliefs and goals were forced to come together to work for the common good.

By empowering the minority, the Framers created a body that has served this country well. To continue down the road we are on now will be to irretrievably change the very character of the Senate and irretrievably weaken the institution. Without the unique feature of extended debate, the Senate will be much less able to stand up to the President or to cool the passions of the explicitly majoritarian House.

I know my colleagues see themselves as guardians of this remarkable institution, as I do. When we leave the Senate—and some day, somehow or another, all of us will—it is our responsibility to ensure we do not leave this institution weakened. As Senators, we tend to see ourselves as pretty important, but none of us—and certainly no judicial nomination—is more important than the institution of the U.S. Senate itself.

Why is this extreme course necessary? Why are so many of our colleagues prepared to sacrifice the Senate's character and its special power? Why are they bent on giving up their own power as Senators?

Let me take a minute to respond to some of the charges made about the behavior of the minority that supposedly has given the majority no choice but to use this nuclear option. First, we are told using the filibuster to block a judicial nomination is unprecedented. As anyone who has studied the record knows, that is nonsense.

Most famously, the Fortas nomination was filibustered. The Senator who led that filibuster, Robert Griffin of Michigan, has tried to claim in recent days that it really wasn't a filibuster at all. But he said at the time:

> It is important to realize that it has not been unusual for the Senate to indicate its lack of approval for a nomination by just making sure that it never came to a vote on the merits. As I said, 21 nominations to the court have failed to win Senate approval. But only nine of that number were rejected on a direct, up-and-down vote.

We are told, however, that the Fortas nomination was different because there were Southern Democrats opposed to the nomination as well as Republicans. But what difference does that make? This debate is not about the rights of the minority party; it is about the rights of a minority of Senators. Does anyone really think that if one or a few of our Republican colleagues joined a filibuster against one of the handful of circuit court nominees that have been blocked, it would make a difference to the Senators who support the nominations and want to change the rules?

Fortas, of course, was a Supreme Court nominee, while the handful of nominees that have been blocked so far have been nominated to circuit courts. But there have been filibusters of circuit court nominees in the past as well, indeed in the very recent past. In 2000, cloture votes were held on two Clinton nominees to the Ninth Circuit, Marsha Berzo, and Richard Paez. The current majority leader himself voted against cloture on Judge Paez's nomination on March 8, 2000.

Apparently, these filibusters were different because they were unsuccessful. The handful of Democratic filibusters of President Bush's nominees are unprecedented, we are told, because the Republican filibusters of Richard Paez and Marsha Berzon didn't prevent them from being confirmed. Does anyone really think that if the current majority leader and the others who voted—against ending debate on the Paez nomination had convinced their colleagues to join them they would have then changed their votes the next time around to make sure that the principle of an up or down vote was maintained?

This is what now passes for debate and argument on the issue of so-called ''obstruction'' of President Bush's nominees. ''The filibusters are unprecedented,'' they say. Never mind that Republicans, including the majority leader, used the same tactic against nominees they opposed. ''Democratic obstruction of the President's nominations is unprecedented,'' we hear.

Never mind that the Senate approved 204 out of 214 nominations that came to the floor in President Bush's first term, but in the last 4 years of President Clinton's presidency, only 175 nominees were confirmed and 55 were blocked, including 20 circuit court nominees. Many of those nominees never even got a hearing in the Senate Judiciary Committee on which I sit.

Well, that was different, we are told, because President Bush's nominees have a majority of support in the Senate. But that distinction is nonsense as well. President Clinton's nominees had majority support, obviously. That is why they were held up in committee and never reached the floor, even for a cloture vote. Judge Paez, for example, was first nominated in January 1996. We finally confirmed him in March 2000. The vote on cloture was 85 to 14. The vote to confirm him was 59 to 39.

But one of the most foolish arguments we hear in support of the nuclear option is that there is a crisis in the courts because of the number of vacancies caused by Democratic filibusters. As of the end of President Bush's first term, during which the Senate confirmed 204 judges, there were only 27 vacancies on the Federal bench. The courts had their lowest vacancy rate since 1990. Five months into his second term, there are now 45 vacancies, but the President has made nominations for only 15 of them, one-third. For 30 vacancies there are no nominees. The vacancy rate is still very low historically. If there is a crisis now, which there isn't, it surely is not the Senate's fault.

There is no vacancy crisis. But we are about to be thrown into a constitutional crisis by a majority that is drunk with power. While there is plenty of blame to go around, the President precipitated this crisis. When he took office in 2001, he had an opportunity to end the bitterness that plagued judicial nominations over the previous decade by recognizing that an injustice had been done to a large number of Clinton nominees. Not an unconstitutional injustice, but an injustice nonetheless There were enough vacancies on the Federal appellate courts for him to name most of the judges but give a few seats to Clinton nominees who had been blocked, or to other nominees suggested by Democrats in those States. In his first group of nominations, which were almost all to the appellate courts, he made a nod in that direction by nominating Roger Gregory to the Fourth Circuit. President Clinton's nomination of Gregory, the first African-American to sit on that circuit, had been blocked in the Judiciary Committee. He was eventually confirmed by a 99–1 vote.

The hopes that the President would make good on his campaign promise to change the tone in Washington were short lived. He ignored pleas for consultation and conciliation on judicial nominations. Time after time, he has filled appellate court seats that had been kept vacant during the Clinton years with extremely conservative and often controversial nominees. Yet Democrats certainly didn't block all or even nearly a majority of those choices. Much to the displeasure of many of the groups on the left that work on nominations, Jeffrey Sutton and Deborah Cook now sit on the Sixth Circuit, Jay Bybee, who we later learned was the author of the infamous DOJ torture memo, is on the Ninth Circuit. Michael McConnell and Timothy Tymkovich are on the Tenth Circuit. In all, 35 of President Bush's nominations to the circuit courts have been confirmed, even though 9 of those seats became vacant during the Clinton years and were kept vacant by denying Clinton nominees an up or down vote.

Only seven judges were blocked because of their views or records. Three others were held up because of the particularly egregious tactics used to block Michigan nominees to the Sixth Circuit during the Clinton administration. The President has succeeded in reshaping the Federal courts to his liking. He may soon have one or even two Supreme Court nominations to make. He ought to be proud of and pleased with his accomplishments, but winning almost all the time apparently isn't enough. And in order to win every time, he is willing to push the Senate to upend over 200 years of tradition and precedent and perhaps permanently damage the comity on which this institution functions.

In the end, the seemingly insurmountable differences we have on judicial nominees can only be resolved the way that seemingly insurmountable differences are resolved on almost all other hotly contested issues in the Senate—through negotiation and compromise. Of course, for there to be compromise, both sides have to be willing to engage in that effort. The offers made by the majority leader thus far do not retain the unique and crucial feature of the current Senate rules—the right to unlimited debate. They amount to a slow motion nuclear option.

It may be that a confrontation cannot be avoided. The groups that support the President's nominees are clamoring for the nuclear trigger to be pulled. The only hope for the Senate is the Senate itself. In the end, this decision will be made by the 100 men and women given the honor and responsibility of serving in this body at this point in our Nation's history. The stakes could hardly be higher, or the consequences to this body more significant. I can only hope that my colleagues vote to let the Senate continue to be the Senate.

The checks and balances that the Framers created are at great risk today. The American people will suffer a great loss if we step over this precipice. My fervent plea and hope is that the Senate will choose principle over power.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana is recognized.

Ms. LANDRIEU. Thank you, Mr. President. I understand we are in morning business. I ask unanimous consent that I may extend my remarks to consume about 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY

Ms. LANDRIEU. Mr. President, this is shaping up to be an auspicious time for an Energy Bill, as we begin a year long celebration of Benjamin Franklin's 300th birthday. Benjamin Franklin was the embodiment of a ''renaissance man.'' He was a small business owner, a diplomat, an accomplished author, a scientist, and one of our Nation's greatest Founding Fathers. It is his role as a scientist that I want to focus on today and suggest that the best birthday present we could give him would be to honor his work and pass a balanced, forward-looking and scientifically-based Energy bill this year.

Americans learn from childhood the story of Franklin and his breakthrough experiment with a kite and lightening. In today's world, it is hard to imagine that a politician as accomplished as Benjamin Franklin would also make such a profound contribution to science. But, he did. Franklin's contribution to science was profound because his experiment with a kite and lightning proved that electricity was a naturally occurring phenomenon.

Before that, superstition governed man's interaction with electricity. It used to be that people believed the devil hurled electric bolts from the sky. So when a lightening storm was brewing, churches sent people to ring the bells to ward them off. Tragically, this same superstition seems to often guide our policies today.

Franklin's pioneering work with electricity is so instructive because it reminds us that we need to put reason and science before superstition and myth. Electricity was once a dangerous force in the world that, thanks to Franklin and Edison, we have now harnessed to provide power and light, life and hope, and the greatest prosperity the world has ever known. This remains our challenge today. If we want to continue to generate power for future generations, we must harness powerful forces—solar rays, geothermal steam, nuclear fusion, wave energy and new generations of fossil fuel technology.

To do so, we must abandon superstition, misinformation and fear.

The area of sharpest interest to the People of Louisiana in this bill, is also surely one of the areas most in need of reason over superstition—oil and gas production, both on shore and on the Outer Continental Shelf. As we are all aware, the United States has an abundant demand for fossil fuels, but also a great need to use them wisely.

We comprise about 5 percent of the world's population, but we consume more than 25 percent of the world's oil production—roughly 20 million barrels per day. Some projections have the country's oil consumption hitting 29 million barrels a day by 2025—nearly a 30 percent increase. With the price of oil hovering around $50 a barrel, this is a chilling proposition.

And for our own purposes today, it should also be a motivating proposition.

The global picture is even more difficult. China, with its rapidly growing economy, 1.3 billion people, and millions of new cars, has just passed Japan to become the second largest consumer of oil after the U.S. In 2003, China consumed more than 5 million barrels per day, of which more than 35 percent was imported. By 2030 it is estimated that China will need 12 million barrels per day. India, with its 1 billion people and surging economy, also has a growing need for a reliable energy supply.

Despite this impending crisis, is the United States trying to secure its future by maximizing its own domestic production of natural sources of renewable energy? Absolutely not. Instead, like medieval villagers, we are running up to the bell towers when lightening is striking.

We have young American soldiers securing Iraq. I support democracy for Iraq; I support democracy for all people of the world. But what separates Iraq from brutal dictatorships in other places? The answer is obvious—the second largest oil reserve in the world.

So young American men and women are sacrificing their lives every day to cover for our superstitions and political gridlock in Washington.

We have lost 1,622 Americans in Iraq—that's more than 2 American soldiers per day of occupation. We have to play the cards that we are dealt, but just because we got a tough hand doesn't mean that we should, in good conscience, pass an energy bill that does not diminish our dependence on Middle Eastern oil.

That is why it is so important that we write an energy bill that provides smart, efficient incentives for the United States to maximize its own domestic energy production, using all the avenues that are available to us to diversify our supply and to encourage competition that would drive down and stabilize prices.

Vitally for my State, this must include a recognition of the contribution that coastal states, particularly states along the Gulf Coast, make to energy production now.

The coast of Louisiana is not a regular coast. In supporting the production and transportation of 80 percent of our Nation's offshore oil supply, it is truly America's Wetland—and with its loss, America faces a national emergency. In the past 50 years alone, Louisiana's size has been reduced by an area larger than that of Rhode Island, and continues to wear away at the rate of one football field every half hour.

If the Rocky Mountains were to shrink by 10 feet every year, we would act. If a foreign army were to advance a hundred yards up our shore every 38 minutes, we would act.

Because of the vast array of energy resources Louisiana and other coastal States supply and protect, coastal erosion in our States presents a direct threat to our national security and the global economy.

We must act—and while the waves eat away our shores, the solution may lie just beneath their surface.

In the early days of this Nation, Benjamin Franklin and his colleagues looked to the western frontier for its rich resources and the promise of new economic and military security, just as their ancestors had looked to the seas with the same thoughts in mind.

Today, our oceans have reemerged as a great frontier capable of helping build a stronger, more secure and more economically stable Nation. We have learned that through new technologies, when managed well and wisely, the ocean frontier holds tremendous resources that may be put to work for America.

Harnessed beneath the surface of this great frontier lies the energy to light our homes, power our public infrastructure and give birth to even greater achievements.

Little more than a century ago, what we'd call ''Ocean Energy Industry'' was simply one of whaling ships and harpoons. But today, the Outer Continental Shelf, or OCS, provides American consumers with 25 percent of the natural gas, and 30 percent of the oil, produced in the country each year.

It also rewards the U.S. Treasury with more than $5 billion annually—$145 billion since production began in 1953. That is the second biggest contributor of revenue to our Federal Treasury after taxes.

But it has costs, and it is perfectly reasonable for States to want assistance with those costs.

The Mineral Lands Leasing Act shares with interior States 50 percent of the revenues generated on Federal land within their borders. In serving as the platforms that support a vital component of our national energy supply, coastal States deserve the same treatment. And so, last week, I introduced the Stewardship for our Coasts and Opportunities for Reliable Energy Act—or SCORE—which does just that . . . It gives coastal States the same 50 percent share of the oil and gas revenues for their work that interior States receive for their efforts to support production.

This is more than just sound economic and energy policy—it is a simple demonstration of fairness.

The OCS supplies more oil to our Nation than any foreign power—including Saudi Arabia—and it is estimated that 60 percent of our Nation's undiscovered oil and gas will be found on the shelf. And so, as we take to the seas again, we are not hunting the elusive Moby Dick of lore. . . We know where the bulk of this oil may be found.

But just as the Western frontier once represented a great unknown to our Nation's policymakers, the impact and reality of the OCS seems lost in a time warp. We exist on outdated policies, and while our production has increased somewhat, we haven't even built a new refinery in a decade.

We also have yet to adequately answer the question, ''Why should a State contribute to our energy independence?'' and have failed to take the necessary steps to encourage them to do so.

Last year, we commemorated the 200th Anniversary of Lewis and Clark's adventure into the frontier. It is a prominent historical event for Louisiana, because it marks the culmination of the promise of the Louisiana purchase. Thirty-eight soldiers and scouts set out with Lewis and Clark, and they called themselves the Corps of Discovery.

Hopefully, our body can take up their mantle and emulate their exploring spirit in the passing of this bill.

Today, we are exploring only 43 million of the 1.67 billion acres of the Outer Continental Shelf—less than 2.6 percent! If Lewis and Clark had taken this same timid tactic, they would have stopped just short of Cincinnati, and the history of our country would have been vastly different. Instead, Lewis and Clark ventured on for another 8,000 miles and helped to open our western frontier. Let us do the same!

Thomas Jefferson, who commissioned the adventure, was eager to have a full understanding of the economic potential of his great bargain. This was an act of political will—for no sooner did the trip commence, than Congress began complaining about its expense. Thus, even Lewis and Clark's voyages were seemingly subject to the mindless penny pinching of ''302(b)'' allocations.

What they were trying to discover was the economic potential and natural resources of this great country. It was a fundamental exercise of reason over myth. Jefferson sought new trading relationships with the native tribes, sought an overland route to the Pacific for nascent trade with China, and wanted to know of the quality of land for agriculture.

What he did not do was let ignorance and fear govern policy.

Yet when it comes to the Outer Continental Shelf, we are doing just that. Not only do we not know the full riches that lie off our coasts, policymakers around here don't want to go, don't want to see, and don't want to know.

While the OCS contains more than 60 percent of the Nation's remaining undiscovered oil and natural gas resources, 85 percent of the OCS in the lower 48 States remains untouchable . . . blocked by Congressional moratoria and administrative withdrawal.

While 98 percent of our current OCS production comes from a very concentrated area—the western half of the

Gulf of Mexico, offshore Louisiana and Texas—most of the Pacific Coast remains off limits. Most of the Eastern Gulf of Mexico . . . off limits. And the entire Atlantic seaboard . . . off limits.

At the same time, our demand for, and supply of, oil and gas are moving in opposite directions. Over the next 20 years, our consumption is expected to increase by 50 percent, but production is only expected to increase by less than half that amount.

Imagine explaining that circumstance to someone like Jefferson or Franklin, Lewis or Clark. They understood the essential fact of progress—you can't discover if you don't look.

It is time for a full accounting of the resources of the OCS. Technology has provided us with a modern Corps of Discovery that will be no more intrusive than the 40 men in the wilderness 200 years ago. With scientific data in hand, then we can have a meaningful argument about the efficacy of what to do with our natural resources.

For example, through the effective use of technology, we have produced three times as many resources as we thought existed 30 years ago—and have produced them in an environmentally friendly way . . . The Minerals Management Service estimates that from 1985 to 2001, OCS offshore facilities and pipelines accounted for only 2 percent of the oil released into U.S. waters. In fact, 97 percent of OCS spills are one barrel or less in volume. Obviously, just a little technology can go a long way.

What is disappointing to me is that the mythology around oil and gas production—its potential hazards and challenges—stems from stories nearly 50 years old. We live in an information driven economy, but many in the environmental community have a very industrial age approach to these challenges.

We ban; we prohibit; we restrict. Instead we should research, innovate and improve.

Several nights ago, I was up late watching an odd documentary. It was about the history of bringing hot water to our homes at the turn of the century. It's something we all take for granted now, but if you contemplate it, it was a difficult engineering problem years ago. Like all new technologies, water heaters were once a lot less reliable than they are now. In fact, when they first started to be installed in people's homes, they frequently blew sky high. That was tragic, and we are all relieved that we've moved beyond that stage in technology.

But, the lesson is that even though tragic injuries occurred, when there was great societal benefit to be had, technology kept on leading the way. That is what has already occurred in oil and gas. There is clearly more that can be done.

I invite any Member of the Senate to join me on an offshore platform. You will see something that looks a lot less like an industrial plant and more like a spaceship . . . A spaceship for which our coastal producing States provide the launch pads.

More can be done, but you will be amazed at what has already been accomplished.

The SCORE Act helps motivate States to consider the potential that lies on the frontier off their coasts, and hopes to inspire a new era of technological advancement and energy invention. As we begin to comprehend the Ocean Frontier, we need to partner with industry to develop the necessary science.

Safety and environmental sensitivity should be the watchwords of our stewardship. It is a lesson that we take with us from our collective experience. To ensure this remains a priority for industry, we need to reinvest some of the resources that we are collecting. That is the way forward—not ignorance and fear, but reason and stewardship.

No one understood the importance of stewardship more than Theodore Roosevelt, whose memorial I visited yesterday with the Senator from Tennessee, Mr. ALEXANDER. Two of Roosevelt's greatest legacies—the Pelican Island National Wildlife Refuge and Breton Island National Wildlife Refuge—lie just off Louisiana's coast. They were the first refuges he created, but as we know, they were not the last . . . and the lives of generations of Americans continue to be enriched by these gifts to us.

In his only trip to one of the refuges he created, Roosevelt visited Louisiana's barrier islands in 1915 . . . but much of the landscape he visited no longer exists, having been washed away by coastal erosion. Reflecting on the visit, he wrote in his autobiography, A Book Lover's Holidays in the Open:

> To lose the chance to see frigate-birds soaring in circles above the storm, or a file of pelicans winging their way homeward across the crimson afterglow of the sunset, or myriad terns flashing in the bright light of midday as they hover in a shifting maze above the beach—why, the loss is like the loss of a gallery of the masterpieces of the artists of old time.

Unfortunately, even with the efforts of conservation visionaries like Roosevelt, the story of the past 100 years has been one of continued coastal and wildlife losses. Consider that Battledore Island, the 'gallery of masterpiece' of which he wrote, is no more. Today, fishermen know it as Battledore Reef.

It is too late for Battledore Island, but it is not too late to save countless other natural treasures around our Nation. While President Roosevelt's vision is still alive, there is much work left to be done . . . and today we have an opportunity to carry on his legacy of conservation and write a different ending to the story he began so long ago.

The Americans Outdoors Act, which I have introduced with Senator ALEXANDER, is a significant start. In our Government today, you will be hard pressed to find a closer embodiment of Roosevelt's legacy than in Senator ALEXANDER, and I am so very proud to be working with him in this effort.

AOA would mark our Government's greatest commitment of resources to conservation ever, and would directly benefit all 50 States and hundreds of local communities through its landmark, multiyear commitment to coastal restoration and other conservation programs like the state side of the Land and Water Conservation Fund. It, like SCORE, would also set forward a crucial first step to restoring America's vital wetlands and the billions of dollars in energy investments they protect.

When Hurricane Ivan struck back in September, it should have been a wake-up call to us all. Although the storm did not hit Louisiana directly, its impact on the price and supply of oil and gas in this country could still be felt 4 months later. One can only imagine what the impact would have been had Ivan cut a more western path in the gulf. How many more hurricane seasons are we going to spend playing Russian roulette with our oil and gas supply?

But the diversity of our energy supply is just as important as the increased production of it. And our atmosphere protects us much in the same way as our coasts. We have an obligation to serve as responsible stewards of both.

Mr. President, it will come as no surprise to you that fear, rather than science, also seems to dominate our policy with respect to nuclear energy. There are some startling facts that most Americans probably do not know today. Nuclear energy—today—despite not having licensed a new plant in 27 years—provides 20 percent of America's electricity. Most importantly, it does so without any emissions.

This is a resource that is produced 100 percent domestically. No one has to bring in a new LNG plant for nuclear energy, no one has to defend critical supply lines for nuclear energy, no one has to cap and trade emissions for nuclear energy. Yet a policy driven by fear and superstition keep the United States in a technological backwater. Between our fear of oil and gas production, our near hysteria toward nuclear power, and our rejection of clean coal options, the United States is living in a kind of energy technology dark ages.

Rather than harnessing powerful forces that could bring light and energy to this Nation. We are being ruled by superstition and fear, and we have to bring these attitudes to an end. The alternative is even more bleak. While the U.S. ignores nuclear power, our economic rivals in Japan and France are pulling away from us. More menacing still, the Chinese are threatening to leap-frog U.S. technology in this arena. Spencer Reiss wrote in a recent article entitled Let a Thousand Reactors Bloom:

> The Future of Nuclear Power, a 2003 study by a blue-ribbon commission headed by

former CIA director John Deutch, concludes that by 2050 the PRC could require the equivalent of 200 full-scale nuke plants. A team of Chinese scientists advising the Beijing leadership puts the figure even higher: 300 gigawatts of nuclear output, not much less than the 350 gigawatts produced worldwide today.

To meet that growing demand, China's leaders are pursuing two strategies. They're turning to established nuke plant makers like AECL, Framatome, Mitsubishi, and Westinghouse, which supplied key technology for China's nine existing atomic power facilities. But they're also pursuing a second, more audacious course. Physicists and engineers at Beijing's Tsinghua University have made the first great leap forward in a quarter century, building a new nuclear power facility that promises to be a better way to harness the atom: a pebble-bed reactor. A reactor small enough to be assembled from mass-produced parts and cheap enough for customers without billion-dollar bank accounts. A reactor whose safety is a matter of physics, not operator skill or reinforced concrete. And, for a bona fide fairy-tale ending, the pot of gold at the end of the rainbow is labeled hydrogen.

With this sort of news, one begins to wonder if there is any set of circumstances that will dissuade the Congress from its wrong-headed policies. We cannot afford to keep waiting. I call on my colleagues to resolve once and for all the issues of where to store the byproducts of our nuclear generation.

Technology also harbors other exciting new promises for clean energy. Coal provides 50 percent of our Nation's electrical supply, and now we can use it in a better way. Coal gasification plants—or ''clean coal'' strip out the pollutants that would otherwise be released into the air, allowing us to continue to draw on this abundant natural resource while also respecting our roles as stewards of the environment.

Liquified natural gas also has a significant role in satisfying our clean energy goals while helping to solve our Nation's supply and demand imbalance. But we cannot allow the Gulf of Mexico to simply become a ''thruway'' for LNG without recognizing the role of coastal States that host the terminals and sustain its importation. To this end, terminal siting is not only a Federal concern but a local one as well.

And finally, we simply cannot ignore the promise of hydrogen technology. Senator DORGAN has been one of the Senate's foremost leaders in this regard. I was proud to support his efforts throughout all of the iterations of the Senate Energy bill, and am very pleased to understand that many of them have been incorporated into the Energy chairman's mark.

Beyond these, there are countless alternative resources we have yet to fully explore—resources such as wind, solar and even wave energy—all of which can also be produced on the OCS with the encouragement SCORE provides.

Let me make clear: Increased domestic production and supply diversity are of paramount importance to our energy needs and national security, but no serious energy policy can ignore the equally important need for energy conservation.

Benjamin Franklin was eminently quotable, but one of his more relevant quips is ''When a well's dry, we know the worth of water.'' So it is with America's environment. The cost of global warming will be truly staggering when compared to conservation measures today.

There are a number of points to be raised in that regard.

First, I believe that the U.S. Government should use its power of economies of scale, and large purchasing power to set the best example. Energy efficiency should be a consideration in the design and retrofitting of U.S. Government buildings. Energy savings should be a factor in the enormous fleet of government vehicles.

I have also supported a provision, now included in the Energy chairman's mark, which would call for a reduction in our Nation's oil consumption by 1 million barrels per day over the next 10 years. We currently consume 20 million barrels. With research and technology, these are very attainable goals.

Similarly, the Senate will be best off with a smart Renewable Portfolio Standard—RPS—that it can pass. RPS is a lynchpin that will make alternative technologies commercially viable. It is a vital and logical step in our efforts toward energy independence.

And even as we address the production side of the equation, we need to make sure the energy we produce reaches consumers affordably and reliably. In our handling of OCS revenues, we ask our coastal producing States to give and give with little in return. Equally unfair are our Nation's electrical transmission policies, which expect Louisiana consumers to foot the bill for electricity consumed in other States.

For these reasons, Senator BURR and I earlier this year introduced the Interstate Transmission Act, which seeks to protect local rate payers and make electric reliability standards mandatory.

Today we make new history. It may not be as exciting as Franklin's discoveries about electricity, or require the endurance of the Corps of Discovery. But it may hold the key to America's economic future.

My Ocean Energy Initiative, which includes the Americans Outdoors and SCORE Acts, as well as a series of technology proposals still to come, creates a strong four-step framework for protecting our national economic, military and energy security by increasing, diversifying, and cleaning up our energy production and supply.

We must look for new ideas and new frontiers to support increased, diverse, and clean energy. The Ocean Frontier today presents the most immediate opportunities, but who knows what lies on the next horizon? Space, perhaps?

We must explore these new frontiers and develop the innovative new technologies to do so more effectively and responsibly.

We must share the shelf and other frontiers, so our states aren't left shouldering the burden.

And we must invest in our environment and return to our coasts, forests and green-spaces the respect and recognition befitting what they have given us by way of natural resources. We give back some of what we take.

Through a responsible balance of conservation and innovation, this Ocean Energy Initiative recognizes that the goals of energy security and environmental stewardship need not be mutually exclusive.

Mr. President, we follow in the footsteps of great pioneers: Benjamin Franklin, who put science before superstition; Thomas Jefferson, who opened the American frontier; Lewis and Clark, who journeyed into this frontier and found its rich promise; and Theodore Roosevelt, who saw that a great nation bears a responsibility of stewardship to the ground it is built upon.

If we follow their example, and continue down the path these pioneers blazed to the new frontier, we will have a bill that we can all look back on with pride.

TRIBUTE TO DR. RICHARD GAMELLI

Mr. DURBIN. Mr. President, I rise to pay tribute to the important work of the president of the American Burn Association, Dr. Richard Gamelli of the Loyola University Medical Center in Chicago, as he approaches the end of his distinguished service in that position. Under Dr. Gamelli's leadership, the American Burn Association has worked tirelessly to improve the first line of defense: the prevention of burn injuries.

The ABA encourages and supports burn-related research, education, care, rehabilitation, and prevention through a variety of programs and publications, including the production of the leading peer-reviewed, scientific journal in the burn field, the Journal of Burn Care & Rehabilitation. During Dr. Gamelli's tenure, the ABA has worked to improve emergency response systems and to incorporate burn care into our Nation's disaster preparedness systems in light of new threats to the United States. Under Dr. Gamelli's guidance, the ABA has expanded its reach and established its position at the forefront of its field. Many physicians, nurses, and health care workers who are members of the ABA are currently on the front lines, serving in Iraq and Afghanistan and treating America's injured soldiers.

As professor and chair of the Department of Surgery at the Loyola University Medical Center, Dr. Gamelli has dedicated his life to advancing clinical treatment of burn victims, accident and trauma victims and others whose medical needs are among the most difficult and dire a doctor ever sees. As a teacher he has provided guidance to high school students, college students,

medical students, residents, graduate students, colleagues and others, encouraging them always to strive for excellence and look for new answers. As a researcher he has helped his department secure funding for more than 20 years from the National Institutes of Health. He is nationally and internationally recognized for his research and has authored more than 150 scientific articles, 23 book chapters, and 8 books.

In 1997 and 2000 Dr. Gamelli was named by Chicago Magazine as one of ''Chicago's Top Doctors,'' and in 1982, 1985, 1986, 1988, 1989 and 1990, he was named Professor of the Year by the medical students at Loyola. He was selected by the faculty council of Loyola University Chicago as the 2002 member of the year for his excellence in teaching, research, patient care and service. In light of his extraordinary record of achievement, his alma mater, Saint Michael's College, inducted Dr. Gamelli into the inaugural class of its Alumni Academic Hall of Fame in 2002.

Having served the ABA admirably, Dr. Gamelli recently stepped down as ABA president at this year's annual meeting. I want to take this opportunity to acknowledge and thank Dr. Gamelli for his distinguished service and for his ongoing contributions to the American people and the medical community, and I wish him all the best in the future.

REPORTING OF S. 1053

Mr. LOTT. Mr. President, I would like to give notice that on April 27, 2005 the Committee on Rules & Administration reported an original bill to amend the regulatory and reporting structure of organizations registered under section 527 of the Internal Revenue Code.

TRIBUTE TO PETER RODINO

Mr. LAUTENBERG. Mr. President, I rise today to mourn the passing of former Congressman Peter Rodino and also to celebrate his life.

The son of hard-working Italian immigrants, Peter Rodino grew up on the streets of Newark, NJ, and rose to become a prominent and respected figure during a defining moment in our Nation's history.

Serving as the chairman of the House Judiciary Committee, Mr. Rodino was charged with managing the impeachment hearings of President Richard Nixon. He had chaired the committee for less than a year when the hearings began, and those who did not know him wondered how he would respond to such a monumental challenge.

He soon put all doubts to rest. He conducted the hearings patiently, thoroughly, and fairly, and in doing so he helped guide our Nation through a difficult test of our Constitution.

By the time the committee had heard all of the evidence about the Watergate break-in and coverup, its members approved several articles of impeachment by overwhelming bipartisan margins. By this action, they proved that our system of government is greater than any one person or political party.

Most of the Nation got to know Congressman Rodino during the Watergate hearings, but I had known him for years through his tireless work on behalf of the people of his district and New Jersey. He loved the city of Newark and the people of Newark, and he always had their interests at heart.

Whether he was helping to pass the 1966 civil rights bill, extending the Voting Rights Act, or leading the effort to make Martin Luther King's birthday a national holiday, Peter Rodino worked tirelessly to make this Nation as great as it can possibly be.

After I came to the Senate, I had the privilege of working with him to help the people of New Jersey. We served together for 6 years, and I was always amazed by the energy and determination he brought to his job.

He had tackled every challenge with that same energy and determination, from his service in World War II with the 1st Armored Division to his work at Seton Hall law school, where he shared his love of the law with students.

Every now and then, someone comes along who is an inspiration for us all, regardless of political party, religious faith, or ethnic background. Peter Rodino was just such a fellow. While I will miss him very much, I will always treasure his friendship with me and remember all the good he did for New Jersey and its people.

VOLUNTARY PUBLIC ACCESS AND WILDLIFE HABITAT INCENTIVE PROGRAM ACT OF 2005

Mr. CONRAD. Mr. President, in March Senator ROBERTS joined me in introducing S. 548, the Voluntary Public Access and Wildlife Habitat Incentive Program Act of 2005.

This legislation is enthusiastically supported not only by America's hunters and anglers, but also by agricultural producers, private landowners and those interested in rural development. Open Fields, as this bipartisan legislation is commonly known, addresses hunting, fishing and other recreational access on private land. The legislation also tackles rural development issues head on.

Dwindling access to quality hunting, angling and other wildlife-dependent opportunities is a trend that slowly is pulling apart the American sporting tradition. At the same time, farmers, ranchers, and small town businesses are desperately looking for the means and opportunities to revitalize and stimulate their local economies. These two needs, the need for better access for sportsmen who can not afford to lease land, and the need for economic stimulation in rural America have intersected and spurred the creation of highly effective state public access programs.

Walk-in or access programs are not a new concept. In fact they have very successfully begun to reverse the trend of diminishing numbers of hunters and anglers in States with these programs. At the same time, these programs generate cash and economic activity in rural economies by encouraging increased numbers of hunters, anglers, and others who enjoy wildlife-related activities to spend more of their outdoor recreation dollars in rural America.

Eighteen States are already using their own limited funding resources to finance very successful access programs. These programs have set the stage for even greater success in the future, but only if additional funding becomes available. When enacted into law, Open Fields will provide $20 million per year in Commodity Credit Corporation funds over the next five years. These funds will be used to provide U.S. Department of Agriculture grants for States with recreational walk-in or access programs. It is our intent that access to all the land that property owners voluntarily enroll under this legislation will be available for, but not limited to, hunting and fishing activities.

I remind our colleagues that the Open Fields legislation offers benefits to many of their constituents, regardless of their State or district, or whether they represent urban or rural Americans. We all know that millions of city dwellers hunt and fish. Access to quality areas to hunt, fish, and enjoy other wildlife related activities within reasonable distances from urban areas is becoming dramatically reduced.

As we travel the rural areas of our States, Senator ROBERTS and I experience firsthand the tremendous need to bring additional income into small towns and communities in Kansas, North Dakota, and across rural America. As members of the Committee on Agriculture, we are constantly looking for alternatives to supplement traditional agricultural programs and improve the economic safety net for our farmers and ranchers that are not considered trade distorting. Open Fields is a program that can help achieve those objectives.

The positive impact of making private lands available to the hunting public is highly visible in Mr. Roberts' home State of Kansas and in my own State of North Dakota. According to data obtained from a 2001 U.S. Fish and Wildlife Service study, Kansas and North Dakota have a total of 1,750,000 acres currently enrolled in state-run access programs. Furthermore, this study notes that hunting licenses sold in the State of Kansas increased from 175,000 in 1996 to 205,000 in 2001, a 22.9 percent increase. In North Dakota, hunting license sales increased from 118,000 in 1996 to 133,000 in 2001, a 12.7 percent increase.

During this same time period, the number of hunters nationwide decreased from 14 million to 13 million.

This is a disturbing trend that has resulted in lost jobs, reduced revenues for local communities, and fewer Americans enjoying our rich hunting heritage. State-run access programs are proof that opening additional acres of private land to hunting increases the numbers of hunters and provides a significant boost to the economies of small towns and rural areas.

I cannot emphasize enough what a tremendous opportunity Open Fields provides our colleagues to invest in America and to help preserve our hunting and fishing heritage. Currently, access programs are being successfully administered in states all across America, from Arizona with 2 million acres to Pennsylvania with 4.3 million acres. In 18 States, more than 23 million acres are enrolled. Administrative and incentive payments total just over $23 million per year, an average of about $1 per acre.

According to a recently completed cost-benefit analysis, states with active access programs encouraged more than 276,000 hunters to continue to hunt who otherwise would have quit. This translates into about $512.6 million these hunters spend annually in these States. With this in mind, I remind our colleagues that the $20 million per year investment called for under this legislation will potentially return many times its initial cost. States with access programs are currently spending about $23 million per year while generating more than $512 million in additional economic activity. Through our legislation, this return on investment can become a reality for many more states and communities.

Part of our responsibility as policymakers is to seek opportunities that will improve the quality of life of our constituents. We have introduced the Open Fields legislation as a means to encourage the States to partner with the outdoor recreation community and private landowners to preserve our hunting and fishing heritage and provide economic growth opportunities for rural America.

I urge my colleagues to support and cosponsor Open Fields.

PAUL PECK

Mr. LEAHY. Mr. President, I come to the floor today to praise an extraordinary man, Paul Peck. I had the honor of meeting Mr. Peck through our mutual interest in the Smithsonian Institution.

Mr. Peck has been an effective proponent of the civic process. In 2002, Mr. Peck generously donated $2 million to enhance the National Portrait Gallery's presidential programs, allowing for educational resources related to the presidency. In the same year, the Portrait Gallery founded The Paul Peck Presidential Awards, the only awards in the United States to honor achievement in presidential service and portrayal. Last year, at the Third Annual Paul Peck Presidential Awards Ceremony, Mr. Peck gave a heartfelt and thought-provoking speech about the need for an increased awareness of American history and an increased level of civil participation in our country. Mr. President, I ask unanimous consent that Mr. Peck's remarks be printed in the CONGRESSIONAL RECORD.

The Smithsonian is truly fortunate to have benefited from the dedication and intelligence of Mr. Peck.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PAUL PECK'S REMARKS, THIRD ANNUAL PAUL PECK PRESIDENTIAL AWARDS

Hi folks.

It's great to be here with you to honor two great Americans: George Elsey and Brian Lamb.

I have been asked many times why I joined with the National Portrait Gallery to focus attention on the presidency.

My answer is: I believe that ''Freedom is life and freedom is rooted in democracy.''

I believe that Americans are blessed,

And we owe it to our children and grandchildren to pass on this love of freedom and the means to preserve it.

The founding fathers believed that freedom requires voters who are knowledgeable, involved, and vigilant.

Today, however, Fewer people vote, Fewer people seem concerned about civic issues, and Fewer people are involved in the civic, governing, and political process.

Furthermore, we've cut back on teaching Civics and according to the National Assessment of Educational Progress, fewer than 25 percent of Americans have even a basic knowledge of American History.

If we allow this trend to continue, what will it mean to be an American; and what happens to democracy because democracy can't survive as a spectator sport.

We can't continue this way. It's a roadmap to disaster and I worry about the direction we're taking.

I believe every citizen has an obligation to make things better and I believe every citizen can make a difference.

Here's how we're going to fix the problem.

The presidency symbolizes the United States and represents government to most people. Americans are fascinated with the presidency and we're going to build on this fixation to foster civic action, civic understanding, and reasoned voting.

Our civic action goal is to get everybody involved in democracy whether through public service, governing, politics, non- governmental organizations, or civic volunteer activities. America was built on people coming together to achieve great and honorable goals and we're going to re-create this sense of community, caring, and co-operation.

As many of you know, I believe that our children are our future. If they don't know what it means to be an American, how do we preserve freedom, democracy, and the American way of life?

In 1954, Brown vs. The Board of Education made America better; and voting and the right to vote grabbed children's attention and led to lifelong civic involvement. What are we doing today to spark a similar interest in freedom and democracy in our children?

As a first step in increasing civic action and understanding, I intend to request that next Tuesday's presidential election winner set aside one school day every year to discuss American principles and encourage civic engagement. It is my hope that government, industry, and academia will encourage participation and provide time to their employees to get involved and help us come together as a nation.

Please help me make this proposal a reality.

In summary, you are our opinion makers. It's vital that you: Strengthen our society, Promote civility, and Inspire people to discuss issues and participate in the civic process;

Thereby promoting Lincoln's ideal of ''government of the people, by the people, and for the people.''

Thank you for coming.—Paul L. Peck, October 28, 2004

ADDITIONAL STATEMENTS

DOBSON STUDENTS RECEIVE HONORABLE MENTION

• Mr. KYL. Mr. President, earlier this month, a class of 25 students from Dobson High School in Mesa, AZ, competed against more than 1,250 students from across the United States in the national finals of the ''We the People: The Citizen and the Constitution'' program. I am proud to note the Dobson students, led by their teacher Joyce Godfrey, received a fourth place honorable mention in this year's competition.

I would like to take a moment to mention the names of those students who competed for Dobson High: Paul Bergelin, Andrew Brown, Lara Cardy, Zach Clark, Brian Hoblit, Katie Hughes, Byunghun Hyun, Valerie Keirn, Patrick Kwan, Alyssa Little, Alex Matyushov, Linh Nguyen, Danielle Rieger, Ralph Robles, Ashley Rogers, Darci Schimschat, Jessica Sims, Drew Snider, Jamie Stall, Tricia Strei, Wing-Yu Tang, Nehal Thakkar, Jana VanMarche, Ashley Wallace, and Jennifer Yan. I would also like to acknowledge their teacher, Joyce Godfrey, the district coordinator, Kathy Williams, and the State coordinator, Susan Nusall.

I wish these budding constitutional scholars the best of luck in the future.•

NORTHSHORE HARBOR CENTER

• Mr. VITTER. Mr. President, I rise today to recognize the opening of the Northshore Harbor Center in Slidell, LA on May 20, 2005. This new convention center will greatly benefit St. Tammany Parish. I join the East St. Tammany Events Center Commission and all the people of St. Tammany Parish in voicing my excitement about the opening of the center and its potential for economic development.

The Northshore Harbor Center is the product of many years of hard work and intense planning. Though numerous individuals were involved in the project, I would like to take this moment to personally recognize those responsible for its completion. First, I would like to commend the dedicated citizens of the East St. Tammany Events Center Commission. Also, I

would like to recognize the parish officials who appointed and oversaw the Commission. Finally, I would like to thank the citizens of Wards 8 and 9 who contributed hard earned tax dollars to fund the construction of this state-of-the-art complex.

I look forward to the wide array of events and conventions that will begin pouring into the Northshore Harbor Center. And I look forward to the many new visitors it will attract to another wonderful parish in Louisiana.●

CONGRATULATING MAX MEYER

● Mr. THUNE. Mr. President, I wish to congratulate a young man named Max Meyer. At the age of 14, Max was recently declared the winner of PAX TV's ''America's Most Talented Kids.'' His winning performance before a television audience exemplified his gift of playing the piano while singing a rendition of Frank Sinatra's ''The Lady is a Tramp.''

Max's accomplishments on the piano are truly impressive, but his talent does not stop there. Max also plays six other instruments, including the harmonica, kazoo, guitar, French horn, drums, and the trumpet.

I have had the pleasure of hearing Max perform on many occasions. His talent and dedication to music are nothing less than inspirational. I am proud to join Max's friends and family in congratulating him on his many and most recent accomplishments.●

CONGRATULATING JENSI KELLOGG-ANDRUS

● Mr. THUNE. Mr. President, today I rise to congratulate an extraordinary educator from Watertown, SD. Jensi Kellogg-Andrus, South Dakota's Teacher of the Year, was recently honored at a conference here in Washington, DC. I would like to take this opportunity to extend my heartfelt congratulations to her.

Jensi is a bright light in a profession of illuminators. Her unwavering dedication to her students' education and development is remarkable. Jensi takes the time to adapt her lesson plans to each individual learning style and strives to help each student achieve their personal goals.

Jensi's career has spanned 16 years and I wish her many more years of continued excellence. It gives me great pleasure to congratulate Jensi for her many and most recent accomplishments.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 485. An act to provide that the royalty rate on the output from Federal lands of potassium and potassium compounds from the mineral sylvite in the 5-year period beginning on the date of the enactment of this Act shall be reduced to 1.0 percent, and for other purposes.

H.R. 540. An act to authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District.

H.R. 627. An act to designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the ''Linda White-Epps Post Office''.

H.R. 938. An act to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes.

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

H.R. 1760. An act to designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the ''Robert M. LaFollette, Sr. Post Office Building''.

H.R. 2107. An act to amend Public Law 104–329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund, and for other purposes.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431 note), amended by section 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2651 note), and the order of the House of January 4, 2005, the Speaker reappoints the following individuals on the part of the House of Representatives to the Commission on International Religious Freedom: Ms. Nina Shea of Washington, D.C., for a 2-year term ending May 14, 2007, to succeed herself, and Ms. Felice Gaer of Paramus, New Jersey, for a 2-year term ending May 14, 2007, to succeed herself upon the recommendation of the Minority Leader.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 485. An act to provide that the royalty rate on the output from Federal lands of potassium and potassium compounds from the mineral sylvite in the 5-year period beginning on the date of the enactment of this Act shall be reduced to 1.0 percent, and for other purposes; to the committee on Energy and Natural Resources.

H.R. 540. To authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District; to the Committee on Energy and Natural Resources.

H.R. 627. An act to designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the ''Linda White-Epps Post Office''; to the Committee on Homeland Security and Government Affairs.

H.R. 938. An act to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1760. An act to designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the ''Robert M. La Follette, Sr. Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2107. An act to amend Public Law 104–329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund, and for other purposes; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2191. A communication from the Associate Deputy Administrator for Government Contracting and Business Development, Small Business Administration, transmitting, pursuant to law, a request for an extension to complete a report relative to the Minority Small Business and Capital Ownership Program participants that is due on April 30 of each year; to the Committee on Small Business and Entrepreneurship.

EC–2192. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Illinois Regulatory Program'' (Docket No. IL–104–FOR) received on May 16; to the Committee on Energy and Natural Resources.

EC–2193. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Emission Standards for Solvent Cleaning Operations Using Non-Halogenated Solvents'' (FRL No. 7913–5) received on May 16, 2005; to the Committee on Environment and Public Works.

EC–2194. A communication from the Principal Deputy Associate Administrator, Office

of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans for Kentucky; Inspection and Maintenance Program Removal for Jefferson County, Kentucky; Source-Specific Nitrogen Oxides Emission Rate for Kosmos Cement Kiln'' (FRL No. 7914–5) received on May 16, 2005; to the Committee on Environment and Public Works.

EC–2195. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District'' (FRL No. 7901–9) received on May 16, 2005; to the Committee on Environment and Public Works.

EC–2196. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (including 71 regulations)'' (RIN1625–AA00) received on May 11, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2197. A communication from the Secretary of Transportation, transmitting, a proposed bill entitled ''Maritime Administration Enhancement Act of 2005''; to the Committee on Commerce, Science, and Transportation.

EC–2198. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Rail Fixed Guideway Systems; State Safety Oversight'' (RIN2132–AA76) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2199. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Environmental Impact and Related Procedures'' (RIN2132–AA78) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2200. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amended Service Obligation Reporting Requirements for State Maritime Academy Graduates'' (RIN2133–AB61) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2201. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Merchant Marine Training'' (RIN2133–AB60) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2202. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Environmental Impact and Related Procedures'' (RIN2125–AF04) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2203. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF6–45 and CF6–50 Series Turbofan Engines'' ((RIN2120–AA64) (2005–0221)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2204. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes'' ((RIN2120–AA64) (2005–0220)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2205. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–200B, 200C, 200F, and 400F Series Airplanes'' ((RIN2120–AA64) (2005–0219)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2206. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–600, 700, and 800 Series Airplanes'' ((RIN2120–AA64) (2005–0218)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2207. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SF340A and 340B Series Airplanes'' ((RIN2120–AA64) (2005–0217)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2208. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Aviointeriors S.p.A. Series 312 Seats'' ((RIN2120–AA64) (2005–0216)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2209. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–100, 100B, 100B SUD, 200B, 200C, 200F, and 300 Series Airplanes; and Model 747SP and 747SR Series Airplanes'' ((RIN2120–AA64) (2005–0215)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2210. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 10 Series Airplanes'' ((RIN2120–AA64) (2005–0214)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2211. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes Equipped with Rolls Royce Model RB211 TRENT 800 Engines'' ((RIN2120–AA64) (2005–0213)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2212. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4–600, A300 B4–600R, A300 C4–605R Variant F, and A300 F4–600R; and Model A310 Series Airplanes'' ((RIN2120–AA64) (2005–0212)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2213. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model 2000 Series Airplanes'' ((RIN2120–AA64) (2005–0211)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2214. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: CENTRAIR 101 Series Gliders'' ((RIN2120–AA64) (2005–0210)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2215. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Model 680 Airplanes'' ((RIN2120–AA64) (2005–0208)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2216. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes; CORRECTION: Docket No. 2001–NM–273'' ((RIN2120–AA64) (2005–0209)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2217. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. Model EMB 135 and 145 Series Airplanes'' ((RIN2120–AA64) (2005–0207)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2218. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on May 16, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2219. A communication from the Regulations Coordinator, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Public Health Service Policies on Research Misconduct'' (RIN0940–AA04) received on May 16, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2220. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the convening of an Accountability Review Board; to the Committee on Foreign Relations.

EC–2221. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Afghanistan Freedom Support Act and the Foreign Assistance Act (FAA) of 1961; to the Committee on Foreign Relations.

EC–2222. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a notification relative to funds for purposes of Nonproliferation and Disarmament Fund (NDF) activities; to the Committee on Foreign Relations.

EC–2223. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to

law, the report of a vacancy in the position of Under Secretary of State for Public Diplomacy, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2224. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Coordinator for Counterterrorism w/Rank of Ambassador at Large, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2225. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Legal Advisor, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2226. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Inspector General, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2227. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State (Educational and Cultural Affairs), received on May 16, 2005; to the Committee on Foreign Relations.

EC–2228. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State for European and Eurasian Affairs, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2229. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State (International Organization Affairs), received on May 16, 2005; to the Committee on Foreign Relations.

EC–2230. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State for Near Eastern Affairs, received on May 16, 2005; to the Committee on Foreign Relations.

REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—PM 10

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the *Federal Register* for publication, which states that the Burma emergency is to continue beyond May 20, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on May 19, 2004 (69 FR 29041).

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma that led to the declaration of a national emergency on May 20, 1997, has not been resolved. These actions and policies, including its policies of committing large-scale repression of the democratic opposition in Burma, are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 17, 2005.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 1042. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. No. 109–69).

S. 1043. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 1044. An original bill to authorize appropriations for fiscal year 2006 for military construction, and for other purposes.

S. 1045. An original bill to authorize appropriations for fiscal year 2006 for defense activities of the Department of Energy, and for other purposes.

By Mr. LOTT, from the Committee on Rules and Administration, without amendment:

S. 1053. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other puropses.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 1042. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 1043. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 1044. An original bill to authorize appropriations for fiscal year 2006 for military construction, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 1045. An original bill to authorize appropriations for fiscal year 2006 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. KYL (for himself, Mr. TALENT, Mr. BROWNBACK, Mr. INHOFE, Mr. STEVENS, Mr. COBURN, Mr. BUNNING, and Mr. THUNE):

S. 1046. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. SUNUNU (for himself, Mr. REID, Mrs. DOLE, Mr. HARKIN, Mr. ALEXANDER, Mr. DURBIN, Mr. LUGAR, Mr. ENSIGN, Mr. BUNNING, Mr. BAUCUS, Mr. INOUYE, Mr. BINGAMAN, Mr. LIEBERMAN, Ms. CANTWELL, Ms. COLLINS, Ms. LANDRIEU, Mr. GRASSLEY, Mr. COCHRAN, and Mr. STEVENS):

S. 1047. A bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. GRAHAM, Ms. STABENOW, and Mr. DURBIN):

S. 1048. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. LUGAR, Ms. CANTWELL, Mr. SANTORUM, Ms. COLLINS, Mr. COCHRAN, Mrs. MURRAY, and Mrs. FEINSTEIN):

S. 1049. A bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Mr. BURR, Mrs. DOLE, Mr. GRAHAM, and Mr. DURBIN):

S. 1050. A bill to amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price; to the Committee on Finance.

By Mr. DODD (for himself and Mr. BOND):

S. 1051. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Mr. PRYOR, Mrs. CLINTON, and Mr. SCHUMER):

S. 1052. A bill to improve transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT:

S. 1053. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; from the Committee on Rules and Administration; placed on the calendar.

By Mrs. FEINSTEIN (for herself and Mr. ENSIGN):

S. 1054. A bill to amend the Elementary and Secondary Education Act of 1965 to specify the purposes for which funds provided under part A of title I may be used; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 1055. A bill to improve elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1056. A bill to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located in the City, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1057. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

By Mr. SANTORUM (for himself and Mr. WYDEN):

S. 1058. A bill to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself, Mr. SMITH, Mr. CHAMBLISS, Mr. DODD, Mr. FEINGOLD, and Mrs. CLINTON):

S.J. Res. 19. A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. Res. 144. A resolution recognizing Tim Nelson and Hugh Sims for their bravery and their contributions in helping the Federal Bureau of Investigation detain Zacarias Moussaoui; considered and agreed to.

By Mr. BROWNBACK (for himself and Mrs. CLINTON):

S. Con. Res. 34. A concurrent resolution urging the Government of the Republic of Albania to ensure that the parliamentary elections to be held on July 3, 2005, are conducted in accordance with international standards for free and fair elections; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 21

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 174

At the request of Mr. DEWINE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 174, a bill to improve the palliative and end-of-life care provided to children with life-threatening conditions, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 241

At the request of Ms. SNOWE, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 408

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 424

At the request of Mr. BOND, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 467

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 484

At the request of Mr. WARNER, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 518

At the request of Mr. SESSIONS, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 518, a bill to provide for the establishment of a controlled substance monitoring program in each State.

S. 603

At the request of Ms. LANDRIEU, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 639

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 639, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 years of age to 55 years of age.

S. 676

At the request of Mr. STEVENS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 676, a bill to provide for Project GRAD programs, and for other purposes.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from Wisconsin

(Mr. FEINGOLD) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 765

At the request of Mr. WARNER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

S. 776

At the request of Mr. JOHNSON, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 807

At the request of Mr. CRAIG, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 807, a bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1.

S. 842

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 842, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 858

At the request of Mr. VOINOVICH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 858, a bill to reauthorize Nuclear Regulatory Commission user fees , and or other purposes.

S. 865

At the request of Mr. VOINOVICH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 865, a bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions.

S. 902

At the request of Mr. MARTINEZ, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 902, a bill to amend the Longshore and Harbor Workers' Compensation Act to clarify the exemption for recreational vessel support employees, and for other purposes.

S. 991

At the request of Mr. KENNEDY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 991, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans.

S. 1018

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1018, a bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.

S. 1031

At the request of Ms. CANTWELL, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1031, a bill to enhance the reliability of the electric system.

S.J. RES. 17

At the request of Mr. LUGAR, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S.J. Res. 17, a joint resolution honoring the life and legacy of Frederick William Augustus von Steuben and recognizing his contributions on the 275th anniversary of his birth.

S.J. RES. 18

At the request of Mr. MCCONNELL, the names of the Senator from Utah (Mr. BENNETT) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S.J. Res . 18, supra.

S. RES. 140

At the request of Mr. NELSON of Florida, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. Res. 140, a resolution expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people.

At the request of Mr. MARTINEZ, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 140, supra.

AMENDMENT NO. 619

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 619 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. LUGAR, Ms. CANTWELL, Mr. SANTORUM, Ms. COLLINS, Mr. COCHRAN, Mrs. MURRAY, and Mrs. FEINSTEIN):

S. 1049. A bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, today, Senator BINGAMAN and I introduced the ''Covering Kids Act of 2005.'' This legislation provides $100 million in funding to a host of entities including the States, local communities, schools, faith-based organizations, Indian tribes, safety net providers. The goal is to increase enrollment of eligible children in Medicaid and the State Children's Health Insurance Program (SCHIP).

I believe that all Americans should have the security of lifelong, affordable access to health care, especially America's children. Programs like SCHIP help provide a critical safety net.

But, unfortunately, there are still too many families who are not aware of the coverage available to them, or face barriers to enrollment. In fact, over 5.6 million kids are eligible for Medicaid and SCHIP, but are not enrolled. The Covering Kids Act will help close that gap.

The legislation will fund innovative outreach and enrollment efforts to expand coverage among minority and underserved children, and to those living in rural areas. It will also give states additional flexibility to streamline enrollment in these programs, reducing administrative costs for the government and eliminating paperwork and hassles for families.

Covering children is the right thing to do. And by ensuring that children have access to preventive care, it is also one of the best ways of reducing long-term strain on America's health care system.

Since arriving in the Senate in 1995, I have advanced worked hard to expand

coverage to uninsured Americans and improve health care for those in need. I have sponsored numerous pieces of bipartisan legislation including: the ''Closing the Health Care Gap Act of 2004,'' the ''Pediatric Research Equity Act of 2003,'' the ''Birth Defects and Developmental Disabilities Prevention Act of 2003,'' and the ''Children's Health Act of 2000.'' Last Congress, we took a critical step forward in expanding affordable health coverage to millions more Americans by authorizing tax-free, portable Health Savings Accounts as part of the Medicare Modernization Act of 2003.

Today, we build on that record of progress.

I first proposed expanding outreach efforts to help lower income children in July of last year. Today, I join with Senator JEFF BINGAMAN and other cosponsors in taking a critical step toward fulfilling that goal.

I also want to applaud the President for his leadership on this issue. President Bush has made the expansion of Medicaid and SCHIP coverage a cornerstone of his agenda. I am confident that with his leadership, and the efforts of my colleagues on the other side of the aisle, we can help millions of kids who need coverage by passing this common sense legislation. All of our children should have access to the affordable quality health care.

I'm proud to introduce this bipartisan legislation with Senators BINGAMAN, LUGAR, CANTWELL, SANTORUM, COLLINS, COCHRAN, and MURRAY. I look forward to working with them, and with all of my colleagues, to strengthen our Nation's health care system and expand affordable health coverage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Covering Kids Act of 2005''.

SEC. 2. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.

(a) GRANTS FOR EXPANDED OUTREACH ACTIVITIES.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. EXPANDED OUTREACH ACTIVITIES.

''(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

''(A) conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX; and

''(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

''(2) PERFORMANCE BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

''(A) eligible entities that propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

''(i) Federal health safety net organizations; or

''(ii) faith-based organizations or consortia.

''(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section to ensure that the activities are meeting their goals; and

''(2) an assurance that the entity shall—

''(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

''(B) cooperate with the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

''(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

''(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State or local government.

''(B) A Federal health safety net organization.

''(C) A national, local, or community-based public or nonprofit private organization.

''(D) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(E) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider;

''(B) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(C) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(D) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(E) any other entity or a consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $50,000,000 for each of fiscal years 2006 and 2007 for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsection (a)(1)(D)(iii) of that section.''.

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by striking ''or (a)(10)(A)(ii)(IX)'' and inserting ''(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applications for child health assistance under title XXI''.

SEC. 3. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD'S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID OR CHILD HEALTH ASSISTANCE UNDER SCHIP.

(a) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(13)(A) At the option of the State, the plan may provide that financial eligibility requirements for medical assistance are met for a child who is under an age specified by the State (not to exceed 21 years of age) by using a determination made within a reasonable period (as determined by the State) before its use for this purpose, of the child's family or household income, or if applicable for purposes of determining eligibility under this title or title XXI, assets or resources, by a Federal or State agency, or a public or private entity making such determination on behalf of such agency, specified by the plan, including (but not limited to) an agency administering the State program funded under part A of title IV, the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, or the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

''(i) the agency has fiscal liabilities or responsibilities affected or potentially affected by such determination; and

''(ii) any information furnished by the agency pursuant to this subparagraph is used solely for purposes of determining financial eligibility for medical assistance under this title or for child health assistance under title XXI.

''(B) Nothing in subparagraph (A) shall be construed—

''(i) to authorize the denial of medical assistance under this title or of child health assistance under title XXI to a child who, without the application of this paragraph, would qualify for such assistance;

''(ii) to relieve a State of the obligation under subsection (a)(8) to furnish medical assistance with reasonable promptness after the submission of an initial application that is evaluated or for which evaluation is requested pursuant to this paragraph;

''(iii) to relieve a State of the obligation to determine eligibility for medical assistance under this title or for child health assistance under title XXI on a basis other than family or household income (or, if applicable, assets or resources) if a child is determined ineligible for such assistance on the basis of information furnished pursuant to this paragraph; or

''(iv) as affecting the applicability of any non-financial requirements for eligibility for medical assistance under this title or child health assistance under title XXI.''.

(b) SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

''(E) Section 1902(e)(13) (relating to the State option to base a determination of child's financial eligibility for assistance on financial determinations made by a program providing nutrition or other public assistance).''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005.

There are nearly 10 million children in the United States without health insurance coverage. Over half of these children live in families with incomes below 200 percent of the Federal poverty level and are eligible for coverage under either the State Children's Health Insurance Program (S–CHIP) or Medicaid, but are not enrolled in those safety net programs. Studies have shown that the families of many eligible children are not familiar with the availability of safety net coverage or face other barriers that prevent enrollment.

One Tuesday, May 17, Senate Majority Leader BILL FRIST and Senator JEFF BINGAMAN will introduce bipartisan legislation to help close this coverage gap. The ''Covering Kids Act of 2005'' seeks to increase health coverage among uninsured, low-income children by providing grants to States, faith-based organizations, safety net providers, schools, and other community and non-profit organizations to conduct innovative Medicaid and SCHIP outreach and enrollment efforts. Grants may also be used to promote the understanding of the important role that health insurance coverage plays in ensuring quality health care for pregnant women and children.

The legislation appropriates $50 million dollars in fiscal year 2006 and an additional $50 million in fiscal year 2007 in addition to already appropriated SCHIP funds for these additional outreach and enrollment efforts. Ten percent of grant funding would be set aside for grants to the Indian Health Service, tribal organizations, and urban Indian programs for outreach and enrollment to Native American children. Outreach funds may be carried over into subsequent fiscal years until the entire $100 million is awarded to grantees.

In making grants, the Secretary of Health and Human Services, HHS, must give priority to grantees that propose to target geographic areas with high numbers of children who are eligible but not enrolled in Medicaid and SCHIP, including those who live in rural areas and those areas with large numbers of racial and ethnic minorities and other health disparity populations.

The Secretary is required to disseminate to eligible grantees as well as to the public enrollment data and other measurements of the effectiveness of these outreach programs. The Secretary also is required to submit an annual report to Congress describing the impact of these efforts on expanding access to uninsured children.

Further, the legislation also allows States additional flexibility to streamline Medicaid and SCHIP enrollment processes. Because two-thirds of uninsured children live in families that receive benefits through other federal programs, the legislation gives states the option of using income and resource eligibility determinations made under other government programs to fast-track enrollment under Medicaid and SCHIP. This reform would simplify state administrative processes, reduce paperwork burdens for families and the government, help increase insurance coverage, and potentially reduce costs across a number of federal programs.

Mr. BINGAMAN. Mr. President, I am pleased to be introducing bipartisan legislation today with Senators FRIST, CANTWELL, LUGAR, SANTORUM, COLLINS, COCHRAN, MURRAY, and FEINSTEIN named the ''Covering Kids Act of 2005.'' This legislation is intended to improve outreach and enrollment efforts targeted toward children and pregnant women and is very similar to language included in legislation I introduced in the 107th Congress entitled the ''Children's Health Coverage Improvement Act'' and earlier this year with Senator LUGAR entitled ''Children's Express Lane to Health Coverage Act.''

The legislation provides $100 million in grants over the next two years to community and faith-based organizations, safety net organizations such as community health centers, disproportionate share hospitals, tribal providers or organizations, schools, or State or local governments for the purposes of conducting innovative outreach and enrollment efforts.

The bill includes language from legislation introduced by Senator LUGAR and me that would promote what is called ''Express Lane Eligibility.'' This approach uses two strategies to find and enroll eligible but uninsured children by: 1. targeting large numbers of eligible children in other public benefit programs like school lunch and food stamps; 2. expediting their enrollment in health coverage by using income-eligibility information already submitted by parents when they enrolled their children in these other public programs.

In combination, these two commonsense ideas could have a dramatic impact on reducing the uninsured rate among our Nation's children, which we must do.

According to the American College of Physicians, uninsured children, when compared to insured children, are: up to 6 times more likely to have gone without needed medical, dental, or other health care; 2 times more likely to have gone without a physician visit during the previous year; up to 4 times more likely to have delayed seeking medical care; up to 10 times less likely to have a regular source of medical care; 1.7 times less likely to receive medical treatment for asthma; and, up to 30 percent less likely to receive medical attention for any injury.

Another study estimated that the 15 percent rise in the number of children eligible for Medicaid between 1984 and 1992 decreased child mortality by 5 percent. I would add that the expansion period occurred during the Reagan and George H.W. Bush administrations with strong Democratic congressional support, so this is clearly a bipartisan issue that deserves further bipartisan action once again.

In fact, during the last presidential campaign, President Bush made very few promises when it came to reducing the number of uninsured in this country. However, he did make the promise to reduce the number of uninsured by conducting additional efforts in outreach and enrollment. As he said in a speech in Pennsylvania on October 21, 2004, ''We'll keep our commitment to America's children by helping them get a healthy start in life. I'll work with governors and community leaders and religious leaders to make sure every eligible child is enrolled in our government's low-income health insurance program. We will not allow a lack of attention, or information, to stand between millions of children and the health care they need.''

I agree and hope that with the support of the Administration and the Majority Leader in his introduction of this bipartisan legislation today that we can secure passage of it this year.

Despite the passage of the State Children's Health Insurance Program, or SCHIP, which has, in combination with Medicaid, caused a reduction in the rate of uninsured children in recent years, it is estimated that 5–6 million of the remaining 9.2 million uninsured children are eligible for but unenrolled in either Medicaid or SCHIP. In New Mexico, there are an estimated 80,000,

or 15.2 percent, of the children in my State without health insurance despite the fact that Medicaid and SCHIP cover children all the way up to 235 percent of the poverty level.

Thus, ineligibility for coverage is no longer a barrier for the vast majority of uninsured children. As the Urban Institute has said, ''A major challenge today is how to reach and enroll the millions of children who are eligible but who remain uninsured.''

The biggest problems are knowledge gaps, confusion about program rules, and problems created by bureaucratic barriers to coverage. The State of California has taken some important strides to eliminate some of these barriers through what they call their Express Lane Eligibility, or ELE, initiative, which allowed the sharing of income-eligibility information across public programs. Unfortunately, Down Horner, Beth Marrow, and Wendy Lazarus of the Children's Partnership in California found in their report entitled ''Building an On-Ramp to Children's Health Coverage: A Report on California's Express Lane Eligibility Program'': ''A clear lesson from California's experience is that there is only so far a state can go in putting an ELE system in place. In the end, existing Federal rules tend to thwart efforts to create a truly efficient process. In California, instead of allowing Medi-Cal to use a school lunch program's income determination, both school lunch and Medi-Cal have to recount a family's income based on their own rules.''

If we can engage in innovative enrollment and outreach activities and promote ELE types of activities in the states, it clearly could have a profound impact on reducing the uninsured rate among our nation's children.

I would like to express my thanks to the Majority Leader and his staff for working through a number of issues with me prior to the introduction of this legislation. I think the bill is stronger, as a result, and look forward to working with him on trying to get the bill enacted in this Congress.

By Mr. DODD (for himself and Mr. BOND):

S. 1051. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Children and Family HIV/AIDS Research and Care Act of 2005. This bipartisan legislation is similar to a bill that was introduced last year. This legislation will address the special needs of children and youth with HIV/AIDS—needs that are too often overlooked, both domestically and internationally. It recognizes the, simple fact that when it comes to HIV prevention, research, care, and treatment, children and youth are not just small adults. To give them a chance for a healthy future, we must ensure that their unique needs are met. I want to thank my good friend Senator BOND of Missouri for joining me in introducing this important legislation. I am very pleased to work with him to move this bill forward.

Children's growing bodies are especially susceptible to the rapid advancement of HIV infection. Because their immune systems are still immature, the disease typically progresses more rapidly and differently in children than in adults. For example, children with HIV infection are more prone to neurological abnormalities and certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to talk.

While research has definitively shown that initiating drug treatment in children in a timely manner promotes normal growth and development, and prolongs life, treating children with HIV/AIDS presents particular challenges. Appropriately formulated and dosed HIV/AIDS drugs are urgently needed to ensure that children receive optimal care. Currently, liquid formulations that young children can swallow are not always readily available. In addition, pediatric dosing and safety information for these powerful drugs is often lacking, particularly for younger children. This lack of information puts children at risk; too much medication can be toxic and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance, a particularly serious concern for children who will need to use these medications for years, if not decades.

Appropriate HIV/AIDS care and treatment for children and youth also requires that special attention be paid to their social development needs. Children and youth have unique concerns regarding disclosure and stigma that may be exacerbated by frequent absences from school and social activities, and the onset of sexual maturity. Working with schools and other social and community institutions is imperative to promoting a sense of normalcy. Because children are not typically medical decision-makers, developing long-term care partnerships with parents and other caregivers is also crucial to successful care and treatment. At the same time, maximizing each child's own ability to take active participation in different aspects of his or her own care can increase a child's sense of ownership over treatment, improving adherence and overall health.

By reauthorizing and expanding Title IV of the Ryan White CARE Act this legislation will help to ensure that the unique care and treatment needs of children are addressed. This program is a lifeline for more than 53,000 women, children, and youth affected by HIV/AIDS served annually by Title IV-funded projects. Through 91 grants in 35 states, the District of Columbia, Puerto Rico and the Virgin Islands, Title IV projects provide medical care, case management, support services, mental health, transportation, child care, and other crucial services to families affected by HIV/AIDS. Title IV is the smallest of the four main titles of the Ryan White CARE Act, yet reaches the highest proportion of minorities.

Key to the success of Title IV projects is the model of ''family-centered care.'' This model of care treats the whole family as the client, whether several family members are infected by HIV, or just a parent or child. The family-centered care model is crucial to developing strong partnerships between consumers and providers, leading to better health outcomes for women, children, and youth. By allowing affected family members to receive services, as well as the infected individuals, Title IV projects promote health at the family level, thereby prolonging life, improving quality of life, and saving money by keeping people out of the hospital.

I would like to take a moment to recognize the work done by the Children, Youth and Family AIDS Network of Connecticut, which provides Title IV services to more than 500 children, youth, women, and families affected by HIV/AIDS in my home state. Just earlier today, I had an opportunity to meet with some of these individuals. They made it clear just how important these services are to their quality of life.

While recommitting the Health Resources and Services Administration (HRSA) to family-centered care and the unique work of Title IV, this legislation will also expand the innovative strategies Title IV projects have used to prevent mother-to-child HIV transmission. Since 1994, when the administration of preventive drug interventions was shown to significantly reduce perinatal HIV transmission, the number of newborns infected with HIV has decreased dramatically. Yet mother-to-children transmission does continue to occur, largely due to missed opportunities for identifying HIV-positive pregnant women and providing the supportive services needed to ensure adherence to recommended treatment regimens. We propose to fund demonstration grants to assess the effectiveness of two strategies in reducing mother-to-children transmission: (1) increasing routine, voluntary HIV testing of pregnant women and (2) increasing access to prenatal care, intensive case management, and supportive services for HIV-positive pregnant women.

In addition, this bill will encourage research into key care and treatment questions affecting the pediatric populations. These include: the long-term health effects of preventive drug regimens on HIV-exposed children; the

long-term health, psycho-social, and prevention needs for children and adolescents perinatally HIV-infected; the transition to adulthood for HIV-infected children; and safer and more effective treatment options for infants, children, and adolescents with HIV disease.

Since history suggests that a vaccine may prove to be the most effective, affordable, long-term approach to stopping the spread of HIV, this legislation will also ensure that children are not an afterthought when it comes to the development of an HIV vaccine. Currently, some of the populations hardest hit by the pandemic—infants and youth—are at risk of being left behind in the search for an effective vaccine. Because we cannot assume that a vaccine tested in adults will also be safe and effective when used in pediatric populations, it will be important to ensure that promising vaccines are tested in infants and youth as early as is medically and ethically appropriate. Failure to begin planning for the inclusion of these groups in clinical trials could mean significant delays in the availability of a pediatric HIV vaccine, at the cost of countless thousands of lives. This legislation will ensure that we begin now to address the logistical, regulatory, medical, and ethical issues presented by pediatric testing of HIV vaccines so that children can share in the benefits of any advances in vaccines research.

I want to thank several organizations for lending their expertise to the development of this legislation, in particular the Elizabeth Glaser Pediatric AIDS Foundation, the AIDS Alliance for Children, Youth and Families, and the American Academy of Pediatrics, all of whom endorse this bill.

HIV/AIDS is the single greatest health care catastrophe facing the world today. We need to do much more to seek effective treatments and, eventually, a cure for this horrible illness. This legislation is by no means sufficient to reach that goal, but it is a step towards ensuring that children are not left behind as we make progress, and then when we do finally eradicate HIV/AIDS once and for all, children and youth are able to benefit immediately. I urge all of my colleagues to join us in support of this legislation.

Mr. BOND. Mr. President, currently, more than 3,700 children and youth under the age of 13 are living with HIV or AIDS in the United States and of the more than 40,000 Americans newly infected with HIV each year, half are young people under the age of 25 years old. When we think about this devastating virus we do not often associate it with children, especially infants or newborn babies, but the fact is this disease does not discriminate on the basis of age. It affects children in very specific and very different ways than adults.

For instance, the medical experience of children with HIV/AIDS can differ significantly from that of adults. Because children's immune systems are still immature, the disease typically progresses more rapidly in children than in adults and can have different manifestations. For example, the majorities of children with HIV have neurological abnormalities and are more susceptible to certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to walk.

Medication for young children living with HIV/AIDS can also be very different than that of an adult living with HIV/AIDS. For example, children of certain ages cannot swallow pills and require liquid formulations of life-saving HIV/AIDS drugs that are not always readily available. In addition, dosing and safety information for these powerful drugs are often strikingly different for children and adults, and for younger children, this information is typically completely missing. This lack of information puts children at risk by requiring health care providers to estimate correct dosing. Too much medication can be toxic, and too little will not effectively suppress the virus. Over time, underdosing can lead to drug resistance.

Children are not just small adults and their growing bodies are especially susceptible to the rapid advancement of HIV infection. Early awareness that a child has HIV infection, combined with good care and support, can enhance survival and quality of life, which is why I am introducing, with my colleague Senator DODD, The Children and Family HIV/AIDS Research and Care Act.

This legislation will address those needs of children and adolescents living with HIV/AIDS by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. Moreover, this legislation will continue to work to reduce mother-to-child transmission of HIV, by promoting routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

For a young person living with HIV or AIDS there is no cure and there is no remission. It is with them at home, on the playground, in the classroom, and at a Friday night sleepover. It will be with them as they enter high school, go to college and get their first job. For a person born with this virus it is a permanent part of their life. This bill will help to ensure that the needs of infants, children, and adolescents living with HIV/AIDS are not overlooked.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Mr. PRYOR, Mrs. CLINTON, and Mr. SCHUMER):

S. 1052. A bill to improve transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I am pleased to join my good friend, Senator INOUYE, Co-Chairman of the Commerce Committee, and several of our colleagues, today in introducing the ''Transportation Security Improvement Act of 2005.'' The Commerce Committee is committed to fulfilling its oversight responsibilities with respect to the security of all major modes of transportation.

It has been four years since Congress enacted landmark aviation and maritime transportation security laws after the September 11 attacks. We must remain diligent in carrying out our responsibility to secure the Nation's domestic transportation system so as to ensure consumer trust and the uninterrupted flow of commerce. Recent reorganizations and budgetary decisions affecting the Transportation Security Administration (TSA) have effectively marginalized maritime and surface transportation security, suggested reprivatization of aviation security, and offered inadequate funding for the security of all modes.

The bill that we introduce today recognizes transportation security as a national security function and an economic necessity. The legislation would address security vulnerabilities that exist within our aviation, maritime, rail, and surface transportation systems. More specifically, the bill would, among other things: make notable changes to aviation security policy, including prohibiting the Administration from increasing passenger fees without the approval of Congress; eliminate the existing cap of 45,000 full time equivalent aviation security screening employees; enhance maritime cargo security by improving the examination of shipments before they reach U.S. shores; require TSA to conduct a railroad sector threat assessment and submit prioritized recommended solutions for improving rail security; make improvements to bus and motor carrier security by subjecting foreign commercial drivers transporting hazardous materials into the U.S. to submit to security background checks; and encourage the deployment of rail car tracking equipment for high-hazard materials rail shipments.

This is an important first step toward bolstering our nation's security with respect to transportation and I

look forward to working with Senator INOUYE, as well as the Department of Homeland Security, DOT, and private industry, on this legislation in committee and on the Senate floor.

Mr. INOUYE. Mr. President, I rise as a leading co-sponsor of the Transportation Security Improvement Act of 2005 introduced today by my colleague and Chairman, TED STEVENS, along with Senators JAY ROCKEFELLER, OLYMPIA SNOWE, FRANK LAUTENBERG, BYRON DORGAN, BARBARA BOXER, MARIA CANTWELL, MARK PRYOR, HILLARY CLINTON, and CHUCK SCHUMER.

Nearly 4 years after the enactment of landmark aviation and maritime security laws, it is time to build upon that foundation, make needed improvements and enhancements to our transportation security efforts across all modes, and reestablish the requisite funding levels. Most importantly, we must restore the sense of urgency that is essential if we are to keep our transportation systems, and our economy, strong, vibrant, and secure. We have worked hard to develop this legislation, and we will continue to improve it with the assistance of committee members and the Department of Homeland Security as we move forward through the legislative process.

Over the past 3½ years, the administration and Congress have slowly lost the sense of immediacy that once allowed us to recognize that transportation security is a matter of national security. The administration's budget and priorities indicate that they are overlooking glaring security vulnerabilities, disregarding the continuing threats and risks that are reported almost daily, and underestimating the economic consequences that would undoubtedly result from another attack on our transportation systems. I am hopeful that the new leadership will reinvigorate transportation security.

The economic importance of those systems can hardly be overstated: 95 percent of the Nation's cargo comes through the ports; our rail system and our motor carriers move all of those goods from our coasts and borders throughout the interior U.S. to retail outlets and manufacturers that rely on on-time delivery; our aviation system carried 629.7 million domestic passengers during 2004 and averaged 1.5 million enplanements per day in January this year; approximately 24 million passengers ride Amtrak annually, and there are nearly 3.4 billion passenger and commuter rail trips in this country each year. The loss of our aviation system for just 4 days after the September 11th attacks sent shockwaves through the economy that are still being felt today. The al Qaida attack on the passenger trains in Madrid, Spain, killing nearly 200 people and injuring 1,800, unfortunately proved that railroads are vulnerable targets for terrorists. If there is an incident at any one seaport, the whole system for moving cargo into and out of the country would screech to a halt, as we scramble to ensure security at other ports. In addition to the horrible loss of life, the resulting economic damage would be widespread, catastrophic and possibly irreversible. We cannot afford to risk this kind of damage due to a lack of preparedness and forethought.

The terrorists that seek to do us harm are cunning, dynamic, and most of all, patient. While they have not successfully struck our homeland since September 11, 2001, it does not mean that they are not preparing to do so. They work 24 hours a day, studying what we do and how we do it. It is imperative that we stay ahead of them. That means we must constantly anticipate, innovate, and plan. We must continually research and implement the most effective technologies. We must recruit, train and deploy the most skilled security force. Simply put, our entire economy relies on a well-functioning, secure, transportation system. It is in our greatest economic interest to ensure that this system, and the passengers and cargo that use it, are well protected. And, in keeping with transportation security's impact on the nation's physical and economic security, it is the responsibility of the federal government to properly finance that protection.

Following passage of our new aviation security laws, the Transportation Security Administration, TSA, was assembled quickly, presented with an enormous task, and expected to produce immediate results. It has performed admirably, despite the administration's near-constant reorganization of the agency with little to no input from Congress. While we take seriously recent reports about financial mismanagement and the limits of the human capacity to detect security breaches, we cannot and must not use these inadequacies as justification to cast aside the critical work of this agency. There are some in Congress that have never been comfortable with the new Federal role in transportation security, and they look to every negative report to help usher in a return to private security screening companies. We contend, however, that transportation security must not be judged only by the bottom-line commercial pressures of the private sector. Transportation security is a unique national security function and an economic necessity, and like our national defense, it must remain a primary responsibility of the federal government.

The need for Congressional action to secure all forms of transportation infrastructure across the country remains essential, and I, along with many of my colleagues on the Senate Commerce Committee, have expressed great reservations about the direction our Nation is now headed on matters of transportation security.

As I noted during the Senate's consideration of the nomination of Michael Chertoff to be the Secretary of the Department of Homeland Security, the administration's budget demonstrates the lost sense of urgency. It shifts critical work away from the TSA. It erodes the Agency's limited focus and accountability. It undermines the effectiveness of our maritime and land security efforts. It underfunds efforts across all modes, but particularly port and rail.

The legislation we are introducing today renews the importance and commitment transportation security deserves. It identifies the numerous, lingering shortcomings that currently exist, re-dedicates our efforts on maritime and surface transportation security, and provides the guidance necessary to adequately defend the nation's infrastructure.

The TSA should not focus almost exclusively on aviation, nor should it be transformed into a glorified, security screener training and placement agency. The TSA is essential, and it possesses critical expertise that must be cultivated and put to proper use. We believe that the TSA, as outlined by our bill, can and will be the difference between a flourishing economy fueled by smooth-running transportation systems and an economy crippled by transportation systems that could fall victim to terrorist attacks.

As such, the Transportation Security Improvement Act of 2005 will authorize the TSA for the next 3 fiscal years and re-dedicate the agency to its mission of providing specialized security for all modes of transportation. It provides further direction to the agency's cargo security functions, strengthens aviation, maritime, rail, hazardous materials, and pipeline security efforts, and enhances interagency cooperation. While the proposal incorporates several Commerce Committee and Senate-passed bills or initiatives from the prior Congress, it also puts forth new ideas to enhance transportation security across all modes.

We recognize that Secretary Chertoff has had only a short time to make changes and that his comprehensive review is pending. Our legislation provides the flexibility necessary to address his findings and prerogatives. However, it is incumbent upon Congress to provide guidance and clarify the expectations.

On the matter of port security, our legislation seeks to improve interagency cooperation with the further development of joint operation command centers. It clarifies the roles and responsibilities for cargo security programs, while establishing criteria for contingency response plans to resume the flow of commerce in the event of a seaport attack. By setting a minimum floor for research and development funding related to maritime and land security, the bill further encourages the development of effective technologies that detect terrorist threats. Conversely, the administration has

continued to consolidate critical infrastructure grant programs, which we believe will effectively decrease funding for port security and eliminate the appropriate expertise necessary to review grant proposals and distribute the funds accordingly.

In addressing aviation security, we continue to be concerned that current budget proposals diminish the TSA's authority and squander its expertise. Airport directors are still struggling to receive the technological and capital improvements that would increase the efficiency and effectiveness of the current security system and lower costs considerably. Instead of addressing these shortcomings with aggressive support, the administration has chosen to place a greater burden on the airlines through increased security fees at the same moment that the carriers are facing the most difficult financial period in their history. Not only has the industry lost more than $30 billion cumulatively since 2000, the Federal government has had to bail out the carriers twice. Increasing the carriers' financial burden is ill conceived and counterproductive.

Quietly but consistently, we also hear of some of our colleagues' desire to return to the same privatized security apparatus that proved disastrously inadequate on September 11, 2001. These efforts are short-sighted, defy our experience, and will reverse much of the progress we have made since September 11. Those seeking to return to the old system, at times, claim that the system is no better than pre-September 11. We all know that is not the case. We also know that with new technology, we can improve screener performance. There is no doubt that human factors limit the capabilities of screeners, but as we fund and deploy new equipment, the security system will continue to improve. Our bill seeks to enhance the current screener workforce by directing a more appropriate use of the TSA's resources and through improved training. It would also stimulate efforts to streamline and improve collections of existing airline and passenger security fees to promote a more efficient and healthy aviation industry.

On rail security, our legislation will incorporate an updated version of the Rail Security Act of 2004, which the Senate passed by unanimous consent last year. It features new efforts to ensure the security of hazardous materials that are shipped by rail and improves security training and awareness for our railroad workers and the public. The tragic events in Madrid, Spain, demonstrated to all of us the clear threats to our rail system. We have already been warned publicly twice by the FBI that al Qaida may be directly targeting U.S. passenger trains and that their operatives may try to destroy key rail bridges and sections of track to cause derailments. The rail threat assessment required by our legislation and the grant programs and other measures designed to respond to those threats will strengthen our ability to address them. Until we pass a rail security package, this body is failing its responsibility to try to secure our national transportation system. We owe it to the American people to strengthen the security of our passenger and freight railroads.

To address the security needs of our other surface transportation modes, the proposal will include funding to improve intercity bus security, strengthen hazardous material transportation security efforts, establish new security guidelines for truck rental and leasing operations, and develop pipeline security incident recovery plans. Such action is long overdue as the administration has consistently failed to develop dedicated programs, much less financial support, for rail and other surface transportation security efforts.

We have reached a critical juncture for transportation security in the United States and the steps that we take in the coming months will impact our safety, security and one of our most essential freedoms—movement—for years to come. We must commit ourselves to ensuring that our transportation security remains a priority and is as strong and effective as possible. I believe the Transportation Security Improvement Act of 2005 will continue to move us in that direction.

Mr. ROCKEFELLER. Mr. President, it is my honor today to join the distinguished cochairmen of the Senate Commerce, Science, and Transportation Committee, Senators TED STEVENS and DANIEL INOUYE, along with our colleagues Senators BYRON DORGAN, FRANK LAUTENBERG, MARK PRYOR, BARBARA BOXER, MARIA CANTWELL, HILLARY CLINTON, and CHUCK SCHUMER, to introduce the Transportation Security Improvements Act of 2005. This is a vitally important contribution to the security of all Americans, and I commend it to my colleagues for their consideration.

The Transportation Security Improvements Act will increase authorizations for the Transportation Security Administration, TSA, by more than $19 billion through fiscal year 2008, and will forthrightly address continuing vulnerabilities in the security of our various transportation modes that Congress and the administration have as yet virtually ignored.

Americans were shocked to learn just how lax our aviation security was on September 11. Even those terrorists on official Government watch lists, who should have been barred from entering the United States, were able to board planes that they then turned into weapons without any significant interference from airport security staffs. As a wounded Nation tried to overcome the horrors of that day, Congress immediately went about fixing what was so obviously wrong with our aviation security.

Now, as we approach the fourth anniversary of that fateful day, Americans are regaining their confidence about aviation security. There is still work to be done, and my colleagues and I endeavor in this bill to further secure air travel. Still, we have done much to improve domestic aviation security by improving the security procedures we demand of airlines and airport personnel both here and abroad. We need to remain vigilant and avoid the inexcusable error of believing we have done all that needs to be done. We must act with the knowledge that our enemies will continue to probe the system they so successfully breached in 2001 to find new and additional opportunities to kill and terrorize Americans.

What my colleagues and I also have realized for some time is that in devoting our energy and resources to aviation security we have been, in a manner of speaking, ''fighting the last war.'' While the aviation sector is prepared for today's threats, congressional action regarding the level of security of our other transportation modes is not much changed from the blissfully naïve standards of September 10.

To be fair, industries in the other transportation modes have worked hard to improve the security of their respective sectors. The relatively little money Congress and the administration have dedicated to improving transportation security has been put to good use. Industry and Government working together, even given the overwhelming scope of the threat, have improved transportation security and protected the lives and property of Americans. We just have not done enough.

The Transportation Security Improvements Act seeks to make overdue improvements to the overall security of this Nation's vast transportation infrastructure. Our bill addresses the security practices and requirements of our Nation's freight and passenger rail network, as well as those of our ocean-going and inland ports, the trucking industry, intercity buses, and the special risks of hazardous materials transportation, regardless of the mode of transportation. It makes the TSA responsible for coordinating international and domestic cargo security. It calls on TSA to work cooperatively with stakeholders in the various transportation modes on preparedness and incident response, and establishes new maritime and land security command procedures. Perhaps most importantly, we acknowledge the need of TSA management to deploy such human resources as it sees fit to protect Americans' lives and property, and it removes the current statutory cap on the agency of 45,000 full-time employees.

To continue the TSA's efforts to improve aviation security, our bill authorizes $15.75 billion over the next 3 fiscal years to fully fund key security programs to defend our Nation's air transportation system. In lieu of recent reports regarding the performance of the airport screening workforce, our bill could not be more timely. We have

included provisions to provide TSA greater flexibility in meeting the staffing needs of screening checkpoints through elimination of an arbitrary staffing cap that was put in place shortly after the agency was created, while also requiring TSA to review the adequacy of recurrent training for these employees. With the difficult economic environment currently faced by the airline industry, the bill takes steps to relieve the carriers of some of the burden that they face through collection of these fees. We would prohibit increasing aviation security fees without Congressional review and approval, while requiring TSA to consider alternative means of collecting such fees. Finally, the bill prohibits the certification of any foreign repair stations until TSA and FAA strengthen the oversight of such facilities by reviewing, auditing and developing regulations to ensure an adequate level of safety and security.

To dramatically improve maritime and land security, we increase funding by $1.099 billion to develop and implement cargo screening and inspection standards, with special attention given to high-risk cargoes. We authorize 10 additional Joint Operation Command Centers to supplement the current positive interagency and public-private cooperation at our ports. We streamline procedures for foreign vessels and those with Coast Guard-certified security plans, require funding for port security technology improvements, and impose a January 2006 deadline for development of a comprehensive Transportation Worker Identification Credentialing Program.

We assist our railroads and hazardous materials shippers in maintaining and improving security along the Nation's nearly 150,000 miles of freight and passenger rail infrastructure. We increase rail security funding by nearly $800 million over 3 years, and with those funds require the TSA to conduct a comprehensive security threat assessment that I first advocated in October 2001. We authorize grants to Amtrak and our freight railroads for overall security improvements, and establish a revamped security training program for railroad employees. Our legislation would allow Amtrak to make specific and long-overdue security improvements along its well-traveled Northeast corridor, and it authorizes development of baggage, passenger, and cargo screening programs, as well as reviews of procedures used by foreign railroads and research into additional improvements.

We seek in this legislation to improve the security of the highway system that is the envy of the world. Our bill makes it a priority to better protect and address the unique security vulnerabilities of intercity buses and their passengers. This is a topic first brought to the attention of Congress by our former colleague Max Cleland, and which I hope we can now see enacted into law as a rightful part of his legacy of service to this country. We further seek to improve highway security by imposing the same level of background checks on foreign drivers transporting hazardous materials as we already require of American drivers. We require vehicles carrying hazardous materials to be equipped with wireless communications equipment, and that their drivers have established plans for the use of alternate routes. We provide funding for the TSA to conduct security inspections of our pipeline network, to develop a pipeline incident response plan, and to analyze the security plans in place for hazmat carriers. We create a public sector response center, and provide for the distribution of emergency wireless communications equipment to first responders, hazmat carriers, and TSA personnel.

Our constituents have sent us here, first and foremost, to protect them. The ruthless attacks of September 11, 2001, exposed inexcusable gaps in our efforts in that regard. At a time when the air in this city is acrid with accusation and acrimony, I ask my colleagues to consider this legislation a priority for quick passage, and an example of the good work this institution can do when we remember why Americans elected us. I ask my colleagues to join us in this effort, and I ask the majority leader to find time on the Senate Calendar for its expeditious consideration by the full Senate.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Transportation Security Improvement Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—AUTHORIZATIONS

Sec. 101. Transportation Security Administration authorization.
Sec. 102. Department of Transportation authorization.
Sec. 103. Certain personnel limitations not to apply.
Sec. 104. Intermodal regional security managers.
Sec. 105. Security threat assessment coordination policy.
Sec. 106. Reorganizations.

TITLE II—IMPROVED AVIATION SECURITY

Sec. 201. Post-fiscal year 2006 air carrier security fees.
Sec. 202. Alternative collection methods for passenger security fee.
Sec. 203. Screener training review.
Sec. 204. Employee retention internship program.
Sec. 205. Repair station security.
Sec. 206. Waiver process for certain employment disqualifications.

TITLE III—IMPROVED RAIL SECURITY

Sec. 301. Short title.
Sec. 302. Rail transportation security risk assessment.
Sec. 303. Systemwide Amtrak security upgrades.
Sec. 304. Fire and life-safety improvements.
Sec. 305. Freight and passenger rail security upgrades.
Sec. 306. Rail security research and development.
Sec. 307. Oversight and grant procedures.
Sec. 308. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 309. Northern Border rail passenger report.
Sec. 310. Rail worker security training program.
Sec. 311. Whistleblower protection program.
Sec. 312. High hazard material security threat mitigation plans.
Sec. 313. Memorandum of agreement.
Sec. 314. Rail security enhancements.
Sec. 315. Welded rail and tank car safety improvements.
Sec. 316. Report regarding impact on security of train travel in communities without grade separation.
Sec. 317. Study of foreign rail transport security programs.
Sec. 318. Passenger, baggage, and cargo screening.
Sec. 319. Public awareness.
Sec. 320. Railroad high hazard material tracking.

TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

Sec. 401. Background checks for drivers hauling hazardous materials.
Sec. 402. Written plans for hazardous materials highway routing.
Sec. 403. Motor carrier high hazard material tracking.
Sec. 404. Truck leasing security training guidelines.
Sec. 405. Hazardous materials security inspections and enforcement.
Sec. 406. Pipeline security and incident recovery plan.
Sec. 407. Pipeline security inspections and enforcement.
Sec. 408. Memorandum of agreement.
Sec. 409. National public sector response system.
Sec. 410. Over-the-road bus security assistance.

TITLE V—IMPROVED MARITIME SECURITY

Sec. 501. Establishment of additional joint operational centers for port security.
Sec. 502. AMTS plan to include salvage response plan.
Sec. 503. Priority to certain vessels in post-incident resumption of trade.
Sec. 504. Assistance for foreign ports.
Sec. 505. Improved data used for targeted cargo searches.
Sec. 506. Increase in number of customs inspectors assigned overseas.
Sec. 507. Random inspection of containers.
Sec. 508. Cargo security.
Sec. 509. Secure systems of international intermodal transportation.
Sec. 510. Technology for maritime transportation security.
Sec. 511. Deadline for transportation security cards.
Sec. 512. Evaluation and report.
Sec. 513. Port security grants.
Sec. 514. Work stoppages and employee-employer disputes.
Sec. 515. Appeal of denial of waiver for transportation security card.

TITLE I—AUTHORIZATIONS

SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.

Section 114 of title 49, United States Code, is amended by adding at the end thereof the following:

''(u) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary of Homeland Security, (Transportation Security Administration)—

''(1) for Aviation Security—

''(A) $5,000,000,000 for fiscal year 2006;

''(B) $5,250,000,000 for fiscal year 2007; and

''(C) $5,500,000,000 for fiscal year 2008;

''(2) for Maritime and Land Security—

''(A) $394,000,000 for fiscal year 2006;

''(B) $354,000,000 for fiscal year 2007; and

''(C) $354,000,000 for fiscal year 2008;

''(3) for Intelligence—

''(A) $30,000,000 for fiscal year 2006;

''(B) $32,000,000 for fiscal year 2007; and

''(C) $34,000,000 for fiscal year 2008;

''(4) for Research and Development—

''(A) $30,000,000 for fiscal year 2006;

''(B) $32,000,000 for fiscal year 2007; and

''(C) $34,000,000 for fiscal year 2008; and

''(5) for Administration—

''(A) $530,000,000 for fiscal year 2006;

''(B) $535,000,000 for fiscal year 2007; and

''(C) $540,000,000 for fiscal year 2008.''.

SEC. 102. DEPARTMENT OF TRANSPORTATION AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Transportation to carry out title III of this Act and sections 20118 and 24316 of title 49, United States Code, as added by title III of this Act—

(1) $261,000,000 for fiscal year 2006;

(2) $258,000,000 for fiscal year 2007; and

(3) $258,000,000 for fiscal year 2008.

SEC. 103. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

(a) IN GENERAL.—Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

(b) AVIATION SECURITY.—Nothwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

(1) to provide appropriate levels of aviation security; and

(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced.

SEC. 104. INTERMODAL REGIONAL SECURITY MANAGERS.

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Under Secretary of Homeland Security for Border and Transportation Security, acting through the Transportation Security Administration, is authorized to establish the position of Intermodal Manager within each of at least 8 regional areas of the nation, as divided on a geographical basis. The Under Secretary shall designate individuals as Managers for, and station those Managers within, those regions.

(b) DUTIES AND POWERS.—The regional offices shall—

(1) receive intelligence information related to maritime and land security within the region;

(2) assist in the development and implementation of vulnerability, threat, and risk assessments, security plans, the identification of critical infrastructure for the region undertaken by the Transportation Security Administration and the Department of Homeland Security, or other public or private entity when appropriate;

(3) serve as the regional coordinator of the Assistant Secretary's response to terrorist incidents and threats to maritime and land assets, operations and infrastructure within the region;

(4) coordinate efforts related to maritime and land security with other Department officials, State and local law enforcement, and other public and private entities;

(5) coordinate with other regional managers;

(6) assist the Assistant Secretary in prioritizing maritime and land security improvements, grants, and other efforts funded by the Transportation Security Administration or the Department of Homeland Security within the region.

(7) engage in outreach and promote public awareness of maritime and land security efforts when appropriate.

SEC. 105. SECURITY THREAT ASSESSMENT COORDINATION POLICY.

(a) IN GENERAL.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a copy of the report on comprehensive terrorist-related screening procedures required by Homeland Security Presidential Directive 11 issued on August 27, 2004.

(b) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 106. REORGANIZATIONS.

The Secretary of Homeland Security shall notify the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, and the House of Representatives Committee on Homeland Security in writing not less than 15 days before—

(1) reorganizing or renaming offices;

(2) reorganizing programs or activities; or

(3) contracting out or privatizing any functions or activities presently performed by Federal employees.

TITLE II—IMPROVED AVIATION SECURITY

SEC. 201. POST-FISCAL YEAR 2006 AIR CARRIER SECURITY FEES.

(a) AIR CARRIER SECURITY SERVICE FEES SUBJECT TO CONGRESSIONAL REVIEW.—Section 44940(a)(2) of title 49, United States Code, is amended by adding at the end the following:

''(D) FISCAL YEARS 2007 AND LATER.—The Under Secretary may not impose a fee under subparagraph (A) after September 30, 2006, unless—

''(i) the fee is imposed by rule promulgated by the Under Secretary; and

''(ii) the Under Secretary submits the rule to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not less than 60 days before its proposed effective date.

''(E) APPLICATION OF CHAPTER 8 OF TITLE 5.—Chapter 8 of title 5 applies to any rule promulgated by the Under Secretary imposing a fee under subparagraph (A) after September 30, 2006.''.

(b) REPORT ON TRANSPORTATION SECURITY SERVICE FEES.—Each year, beginning with calendar year 2006, the Secretary of Homeland Security, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on fees, substantially similar to the fee imposed under section 44940(a)(2) of title 49, United States Code, that are imposed under authority of law on competing modes of regularly-scheduled commercial passenger transportation by rail, vessel, or over-the-road bus to pay for the difference between the Transportation Security Administration's costs of providing transportation security services in connection with those modes of transportation and amounts collected from fees imposed under authority of law on passengers using those modes of transportation, taking into account costs that are the same as or similar to the costs described in 44940(a)(1) of that title that are appropriate to the respective modes of transportation.

SEC. 202. ALTERNATIVE COLLECTION METHODS FOR PASSENGER SECURITY FEE.

(a) IN GENERAL.—

(1) STUDY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall study the feasibility of collecting the passenger security service fee authorized by section 44940(a) of title 49, United States Code, directly from passengers at, or before they reach, the airport through a system developed or approved by the Assistant Secretary, including the use of vending kiosks, other automated vending devices, the Internet, or other remote vending sites.

(2) SOLICITATION OF PROPOSALS.—In carrying out this subsection the Secretary shall solicit proposals for such alternative collection mechanisms.

(3) DEVELOPMENT OF ALTERNATIVES.—Based on the study conducted under paragraph (1) and an evaluation of proposals submitted pursuant to the solicitation under paragraph (2), the Assistant Secretary shall develop such alternative collection systems as the Assistant Secretary determines to be feasible, including schedules and methods to ensure the efficiency of such systems.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations the Secretary deems appropriate, to the Congress within 6 months after the date of enactment of this Act.

(c) DEMONSTRATION PROJECTS.—If the Secretary determines that a system of direct collection of such fees from passengers at airports is feasible, the Secretary shall conduct demonstration projects at no fewer than 3 airports within 1 year after submitting the report required by subsection (b) to the Congress.

SEC. 203. SCREENER TRAINING REVIEW.

Within 6 months after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall transmit a report on the adequacy of training for Transportation Security Administration screeners to the Congress. In addition to other issues, the Assistant Secretary shall specifically address any multi-hour weekly training requirement for such screeners, including an assessment of the degree to which such a requirement is observed and whether the requirement is appropriate, workable, and desirable. The Inspector General of the Department of Homeland Security shall review the report submitted under this section.

SEC. 204. EMPLOYEE RETENTION INTERNSHIP PROGRAM.

The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a pilot program at no fewer than 3 airports for training students to perform screening of passengers and property under section 44901 of title 49, United States Code. The program shall be an internship for pre-employment training of final-year students from public and private secondary schools located in nearby communities. Under the program, participants—

(1) shall be compensated for training and services time while participating in the program, and

(2) shall be required to agree, as a condition of participation in the program, to accept employment as a screener upon successful completion of the internship and upon graduation from the secondary school.

SEC. 205. REPAIR STATION SECURITY.

(a) CERTIFICATION OF FOREIGN REPAIR STATIONS SUSPENSION.—If the Under Secretary of Homeland Security for Border and Transportation Security does not issue the regulations required by section 44924(e) of title 49,

United States Code, within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations after such 90th day.

(b) 6-MONTH DEADLINE FOR SECURITY REVIEW AND AUDIT.—Subsections (a) and (d) of section 44924 of title 49, United States Code, are each amended by striking ''18 months'' and inserting ''6 months''.

SEC. 206. WAIVER PROCESS FOR CERTAIN EMPLOYMENT DISQUALIFICATIONS.

Section 44936 of title 49, United States Code, is amended by adding at the end the following:

''(f) WAIVER PROCESS.—

''(1) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall establish a process to permit an individual who was convicted of a crime listed in subsection (b) to obtain a waiver from the Under Secretary to permit that individual's employment.

''(2) FACTORS.—In deciding whether to grant a waiver under this subsection, the Under Secretary shall give consideration to the circumstances of the disqualifying crime, restitution made by the individual, and other factors that would tend to indicate that the individual does not pose a security or terrorism risk.

''(3) APPEALS PROCESS.—The Under Secretary shall establish a process that includes an opportunity for a hearing for individuals who are denied waivers under this subsection.

''(4) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

''(A) Information submitted to or obtained by the Attorney General or the Secretary under this section about an individual may not be made available to the public, including the individual's employer.

''(B) Any information submitted to or obtained under this section shall be maintained confidentially by the Under Secretary and may be used only for making determinations under this section. The Under Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed whether or not the individual has been granted unescorted access under this section.

''(5) APPEAL.—An individual denied a waiver under this subsection may file a civil action appealing that denial in any United States District Court and those courts shall have jurisdiction of the appeal.''.

TITLE III—IMPROVED RAIL SECURITY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Rail Security Act of 2005''.

SEC. 302. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY AND RISK ASSESSMENT.—The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of vulnerabilities and risks to those assets and infrastructures;

(C) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2006.

SEC. 303. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c) the Secretary of Homeland Security, in consulation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary of Homeland Security. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(1) $63,500,000 for fiscal year 2006;

(2) $30,000,000 for fiscal year 2007; and

(3) $30,000,000 for fiscal year 2008.

Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 304. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication

and lighting systems, and emergency access and egress for passengers—

(A) $190,000,000 for fiscal year 2006;

(B) $190,000,000 for fiscal year 2007;

(C) $190,000,000 for fiscal year 2008;

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $19,000,000 for fiscal year 2006;

(B) $19,000,000 for fiscal year 2007;

(C) $19,000,000 for fiscal year 2008;

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $13,333,000 for fiscal year 2006;

(B) $13,333,000 for fiscal year 2007;

(C) $13,333,000 for fiscal year 2008;

(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation for fiscal year 2006 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

SEC. 305. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security vulnerabilities and risks identified under section 302, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 302, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Secretary.

(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk and vulnerability as determined under section 302, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 303(b) of this Act.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 302 the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $120,000,000 for fiscal year 2006;

(2) $120,000,000 for fiscal year 2007; and

(3) $120,000,000 for fiscal year 2008.

Amounts made available pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

SEC. 306. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary of Transportation, in conjunction with the Under Secretary of Homeland Security for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 305(g) of this Act;

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects that address vulnerabilities and risks identified under section 302.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary of Transportation shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Transportation and the Department of Homeland Security. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Under Secretary of Homeland Security for Science and Technology, if the Under Secretary—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section 305(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation to carry out this section—

(1) $35,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $35,000,000 for fiscal year 2008.

Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 307. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), may use up to 0.5 percent of amounts made available for capital projects under the Rail Security Act of 2005 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under this Act.

(c) PROCEDURES FOR GRANT AWARD.—The Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code. The Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 308. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2005, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) FUNDING.—Out of funds appropriated pursuant to section 102 of the Rail Security Act of 2005, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2006 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. 309. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, the Assistant Secretary of Homeland Security (Transportation Security Administration), heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security; and

(8) an analysis of the feasibility of reinstating United States Customs and Border Patrol rolling inspections onboard international Amtrak trains.

SEC. 310. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall require such a program to include, at a minimum, elements as appropriate to passenger and freight rail service, that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew communication and coordination.

(3) Appropriate responses to defend oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(7) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(8) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 60 days after the Secretary issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for approval. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and approve it or require the railroad carrier to make any revisions the Secretary considers necessary for the program to meet the guidance requirements.

(d) TRAINING.—Not later than 180 days after the Secretary approves the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) from time to time to reflect new or different security threats, and require railroad carriers to revise their programs accordingly and provide additional training to their front-line workers.

(f) FRONT-LINE WORKERS DEFINED.—In this section, the term ''front-line workers'' means security personnel, dispatchers, train operators, other onboard employees, maintenance and support personnel, bridge tenders, and other appropriate employees of railroad carriers.

(g) OTHER EMPLOYEES.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

SEC. 311. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

''§ 20118. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

''20118. Whistleblower protection for rail security matters.''.

SEC. 312. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 305(g) of this Act and of a quantity equal or exceeding the quantities of such material listed in subpart 172.800, title 49, Federal Code of Regulations, to develop a high hazard material security threat mitigation plans containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets.

(b) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards—

(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

(c) COMPLETION AND REVIEW OF PLANS.—

(1) PLANS REQUIRED.—Each rail carrier shall—

(A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act; and

(B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary.

(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review and approve the plans. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

(d) DEFINITIONS.—In this section:

(1) The term ''high-consequence target'' means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in—

(A) catastrophic loss of life; and

(B) significantly damaged national security and defense capabilities; or

(C) national economic harm;

(2) The term ''catastrophic impact zone'' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

(3) The term ''rail carrier'' has the meaning given that term by section 10102(5) of title 49, United States Code.

SEC. 313. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 314. RAIL SECURITY ENHANCEMENTS.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Under'';

(2) by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''; and

(3) by adding at the end the following:

''(b) LIMITATION.—Except to the extent necessary to carry out subsection (a), a rail police officer employed by a Class I or Class II railroad as identified by the Surface Transportation Board has no authority to enforce any rule, policy, or practice of, or labor agreement by, a rail carrier relating to personnel management or labor relations other than those involving safety or security. Nothing in this subsection shall preclude a rail police officer from performing any activities not covered by subsection (a) that may be performed by any other employee of a railroad, provided that the rail police officer does not use his or her position as a rail police officer in performing such activities.''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 315. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures

(in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) INSPECTION.—Whenever the Administration determines that it is necessary or appropriate the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this Act; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this Act.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this Act the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall—

(1) establish a program to rank those cars according to their risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the measures implemented.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration $1,000,000 for fiscal year 2006 to carry out this section, such sums to remain available until expended.

SEC. 316. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, the Assistant Secretary of Homeland Security (Transportation Security Administration), and State and local government officials, shall conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response capabilities.

SEC. 317. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2005, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 318. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, shall—

(1) study the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains including an analysis of any passenger train screening pilot programs undertaken by the Department of Homeland Security; and

(2) report the results of the study, together with any recommendations that the Secretary of Homeland Security may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2006.

SEC. 319. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall implement the plan developed under this section.

SEC. 320. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—

(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 305(g) of this Act) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless terrestrial or satellite communications technology that provides—

(A) car position location and tracking capabilities;

(B) notification of rail car depressurization, breach, or unsafe temperature; and

(C) notification of hazardous material release.

(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Homeland Security; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

(b) FUNDING.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Homeland Security through the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section $3,000,000 for each of fiscal years 2006, 2007, and 2008.

TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

SEC. 401. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.

(a) FOREIGN DRIVERS.—

(1) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) DEFINITIONS.—In this subsection:

(A) HAZARDOUS MATERIALS.—The term ''hazardous material'' has the meaning given that term in section 5102(2) of title 49, United States Code.

(B) COMMERCIAL MOTOR VEHICLE.—The term ''commercial motor vehicle'' has the meaning given that term by section 31101 of title 49, United States Code.

(b) OTHER DRIVERS.—

(1) EMPLOYER NOTIFICATION.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop and implement a process for the notification of a hazmat employer (as defined in section 5102(4) of title 49, United States Code), if appropriate considering the potential security implications, designated by an applicant seeking a threat assessment under part 1572 of title 49, Code of Federal Regulations, if the Transportation Security Administration, in an initial notification of threat assessment or a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations.

(2) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

(A) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(i) has performed a security threat assessment under part 1572 of title 49, Code of Federal Regulations, and

(ii) has issued a notification of no security threat under section 1572.5(g) of that title,

is deemed to have met the requirements of any other background check that is equivalent to, or less stringent than, the background check performed under section 5103a

of title 49, United States Code, that is required for purposes of any Federal law applicable to transportation workers.

(B) DETERMINATION BY ASSISTANT SECRETARY.—Within 30 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall initiate a rulemaking proceeding, including notice and opportunity for comment, that sets forth the background checks and other similar security or threat assessment requirements applicable to transportation workers under Federal law to which subparagraph (A) applies.

(C) FUTURE RULEMAKINGS.—The Assistant Secretary shall make a determination under the criteria established under subparagraph (B) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this Act.

(c) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes standards for applicants for a hazardous materials endorsement to a commercial driver's license that, as determined by the Secretary of Homeland Security, are more stringent than the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations, then the State shall also provide an appeals process similar to the process provided under section 1572.141 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial in a manner substantially similar to, and to the same extent as, an individual who received an initial notification of threat assessment under part 1572 of that title.

(d) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term ''severe transportation security incident'', as defined in section 1572.3 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall modify the definition of that term to reflect the preceding sentence.

(e) BACKGROUND CHECK CAPACITY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit a report by October 1, 2005, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

SEC. 402. WRITTEN PLANS FOR HAZARDOUS MATERIALS HIGHWAY ROUTING.

Within 180 days after the date of enactment of this Act, the Secretary of Transportation shall require each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain a written route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title.

SEC. 403. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—Within 2 years after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation, shall require, consistent with the recommendations and finding contained in the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004, commercial motor vehicles transporting high hazard materials (as defined in section 305(g) of this Act) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, to be equipped with wireless terrestrial or satellite communications technology that provides—

(1) continuous communications;

(2) vehicle position location and tracking capabilities; and

(3) a feature that allows a driver of such vehicles to broadcast an emergency message.

(b) EXEMPTIONS.—The Assistant Secretary may grant a 2-year waiver of this requirement for a motor carrier for the commercial motor vehicles it operates if—

(1) adequate technology is not readily available;

(2) available technology is not sufficiently reliable; or

(3) the size of a motor carrier or the infrequency with which it transports high hazard material shipments makes the requirement overly burdensome.

(c) ASSISTANCE PROGRAM.—The Assistant Secretary may develop an assistance program to provide technical guidance and grants to motor carriers who receive waivers under subsection (b)(3) to expedite compliance with subsection (a) of this section.

SEC. 404. TRUCK LEASING SECURITY TRAINING GUIDELINES.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Federal Motor Carrier Safety Administration, shall develop and make available in written or electronic form security training guidelines for short-term truck leasing operations.

(b) CONTENTS.—The truck leasing security training guidelines shall—

(1) include information for short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(2) contain a list of best practices developed by the Assistant Secretary.

(c) OUTREACH.—The Assistant Secretary, through each Federal maritime and land regional security manager, shall hold public information and outreach sessions to present the truck leasing security training guidelines to short-term truck leasing companies.

(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section $1,000,000 for fiscal year 2006.

SEC. 405. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act.

(b) CIVIL PENALTY.—The failure, by a shipper, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Assistant Secretary of such failure to comply, is punishable by a civil penalty imposed by the Assistant Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the pipeline operator received notice of the failure shall constitute a separate failure.

(c) COMPLIANCE REVIEW.—In reviewing the compliance of hazardous materials shippers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Assistant Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations.

(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.

SEC. 406. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed under section 408, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include—

(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 407—

(A) at high or severe security threat levels of alert; and

(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both public and private entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation

of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the cost to implement any recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2006.

SEC. 407. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation, shall establish a program within the Transportation Security Administration for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections, as determined by the Assistant Secretary.

(b) REVIEW AND INSPECTION.—Within 9 months after the date of enactment of this Act the Assistant Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators, as determined by the Assistant Secretary, covered by the September, 5, 2002, circular.

(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), the Assistant Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets.

(d) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Assistant Secretary shall issue security regulations for natural gas and hazardous liquid pipelines and pipeline facilities. The regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance. The Assistant Secretary shall publish a schedule of those civil penalties.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.

SEC. 408. MEMORANDUM OF AGREEMENT.

Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing pipeline security and hazardous material transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

SEC. 409. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.

(a) DEVELOPMENT.—The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall develop a national public sector response system to receive security alerts, emergency messages, and other information generated by various wireless terrestrial or satellite communications technologies used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In developing this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, Operation Respond, and commercial motor vehicle and hazardous material safety groups. The development of the national public sector response system shall be based upon the public sector response center developed for the hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.

(b) CAPABILITY.—The national public sector response system shall be able to receive, as appropriate,—

(1) negative driver verification alerts;

(2) Out-of-route alerts;

(3) Driver panic or emergency alerts; and

(4) tampering or release alerts.

(c) CHARACTERISTICS.—The national public sector response system shall—

(1) be an exception-based system;

(2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and

(3) provide users the ability to create rules for alert notification messages.

(d) CARRIER PARTICIPATION.—Within 180 days after the national public sector response system is operational, as determined by the Secretary, each motor carrier and railroad transporting high hazard materials, or entities acting on their behalf who receive such wireless communication alerts from motor carriers or railroads, shall provide the information listed in subsection (b) to the national public sector response system and vehicle or rail car location information to extent possible with the wireless communication technology used by the motor carrier or railroad.

(e) CALL-IN NUMBER.—The national public sector response system shall be designed to include an automated call-in system that allows commercial motor vehicle drivers, railroad employees, and hazardous material employees involved in the transportation of high hazard materials to report accidents, threats, thefts, or other safety and security risks or incidents to the national public sector response system using cellular or other telephone technology.

(f) DATA PRIVACY.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers and drivers.

(g) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the estimated total cost to establish and annually operate the national public sector response system under subsection (a), together with any recommendations for generating private sector participation and investment in the development and operation of the national public sector response system.

(h) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $1,000,000 for fiscal year 2006;

(2) $1,000,000 for fiscal year 2007; and

(3) $1,000,000 for fiscal year 2008.

SEC. 410. OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing and upgrading an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) REIMBURSEMENT.—A grant under this section may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Assistant Secretary to have been incurred by such operators since September 11, 2001.

(c) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this section shall be 90 percent.

(d) DUE CONSIDERATION.—In making grants under this section, the Assistant Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security threat to bus passengers and the ability of the funded project to reduce, or respond to, that threat.

(e) GRANT REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(f) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Assistant Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Assistant Secretary—

(A) a plan for making security improvements described in subsection (a) and the Assistant Secretary has approved the plan; and

(B) such additional information as the Assistant Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Assistant Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(g) OVER-THE-ROAD BUS DEFINED.—In this section, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

(h) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, a preliminary report in accordance with the requirements of this section.

(2) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(F) an assessment of industry best practices to enhance security.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Assistant Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

(i) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $50,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007; and

(3) $50,000,000 for fiscal year 2008.

Amounts made available pursuant to this subsection shall remain available until expended.

TITLE V—IMPROVED MARITIME SECURITY

SEC. 501. ESTABLISHMENT OF ADDITIONAL JOINT OPERATIONAL CENTERS FOR PORT SECURITY.

(a) IN GENERAL.—In order to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall establish joint operational centers for port security at all Tier 1 ports to the extent practicable within 2 years ater the date of enactment of this Act.

(b) CHARACTERISTICS.—The joint operational centers shall—

(1) be based on the most appropriate compositional and operational characteristics of the pilot project joint operational centers for port security in Miami, Florida, Norfolk/Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California;

(2) be adapted to meet the security needs, requirements, and resources of the individual port area at which each is operating;

(3) provide for participation by the United States Customs and Border Protection Agency, the Transportation Security Administration, the Department of Defense, and other Federal agencies, as determined to be appropriate by the Secretary of Homeland Security, and State and local law enforcement or port security agencies and personnel; and

(4) be incorporated in the implementation of—

(A) maritime transportation security plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of that title;

(C) short and long range vessel tracking under sections 70114 and 70115 of that title;

(D) secure transportation systems under section 70116 of that title;

(E) the Bureau of Customs and Border Protection's screening and high-risk cargo inspection programs; and

(F) the transportation security incident response plans required by section 70104 of that title.

(c) 2005 ACT REPORT REQUIREMENT.—Nothing in this section relieves the Commandant of the Coast Guard from compliance with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004. The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(d) BUDGET AND COST-SHARING ANALYSIS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the joint operation of the centers.

SEC. 502. AMTS PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

''(F) include a salvage response plan—

''(i) to identify salvage equipment capable of restoring operational trade capacity; and

''(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation security incident.''.

SEC. 503. PRIORITY TO CERTAIN VESSELS IN POST-INCIDENT RESUMPTION OF TRADE.

Section 70103(a)(2)(J) of title 46, United States Code, is amended by inserting after ''incident.'' the following: ''The plan shall provide, to the extent practicable, preference in the reestablishment of the flow of cargo through United States ports after a transportation security incident to—

''(i) vessels that have a vessel security plan approved under subsection (c); and

''(ii) vessels manned by individuals who are described in section 70105(b)(2)(B) and who have undergone a background records check under section 70105(d) or who hold transportation security cards issued under section 70105.''.

SEC. 504. ASSISTANCE FOR FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by adding at the end the following:

''(c) FOREIGN ASSISTANCE PROGRAMS.—

''(1) IN GENERAL.—The Administrator of the Maritime Administration, in coordination with the Secretary of State and the Secretary of Energy, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.

''(2) CARIBBEAN BASIN.—The Administrator, in coordination with the Secretary of State and in consultation with the Organization of American States, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

''(A) the strategic location of such ports between South America and United States;

''(B) the relative openness of such ports; and

''(C) the significant number of shipments of narcotics to the United States that are moved through such ports.''.

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2006, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. 505. IMPROVED DATA USED FOR TARGETED CARGO SEARCHES.

(a) IN GENERAL.—In order to provide the best possible data for the automated target system that identifies high-risk cargo for inspection, the Secretary of Homeland Security shall require importers shipping goods to the United State via cargo container to supply entry data under the advance notification requirements under section 4.7 of the Customs Regulations (19 C.F.R. 4.7).

(b) DEADLINE.—The requirement imposed under subsection (a) shall apply to goods entered after December 31, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security $5,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out the automated targeting system program to identify high-risk oceanborne container cargo for inspection. The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

(d) EVALUATION BY COMPTROLLER GENERAL.—

(1) IN GENERAL.—The Comptroller General shall evaluate action taken by the Department of Homeland Security to address the deficiencies in its automated targeting system strategy identified in the Government Accountability Office's report entitled ''Homeland Security Challenges Remain in the Targeting of Oceangoing Cargo Containers for Inspection'' (GAO-04-352NI). In making the evaluation, the Comptroller General shall assess whether all key elements of a risk management framework and recognized modeling practices have been incorporated in the Department's strategy, including—

(A) threat, criticality, vulnerability, and risk assessments;

(B) external peer review of the automated targeting system;

(C) a mandatory random sampling program;

(D) simulated events to test the targeting strategy; and

(E) effectiveness reviews of risk mitigation actions.

(2) REPORT.—The Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act containing the results of the evaluation, together with any recommendations the Comptroller General deems appropriate.

SEC. 506. INCREASE IN NUMBER OF CUSTOMS INSPECTORS ASSIGNED OVERSEAS.

(a) IN GENERAL.—The Secretary of Homeland Security shall substantially increase the number of United States Customs Service inspectors assigned to duty outside the United States under the Container Security Initiative of the United States Customs Service with responsibility for inspecting intermodal shipping containers being shipped to the United States.

(b) STAFFING CRITERIA.—In carrying out subsection (a) the Secretary of Homeland Security shall determine the appropriate level for assignment and density of customs inspectors at selected international port facilities by a threat, vulnerability, and risk analysis which, at a minimum, considers—

(1) the volume of containers shipped;

(2) the ability of the host government to assist in both manning and providing equipment and resources;

(3) terrorist intelligence known of importer vendors, suppliers or manufactures; and

(4) other criteria as determined in consult with experts in the shipping industry, terrorism, and shipping container security.

(c) MINIMUM NUMBER.—The total number of customs inspectors assigned to international port facilities shall not be less than the number determined as a result of the threat, vulnerability, and risk assessment analysis which is validated by the Administrator of the Transportation Security Administration within 180 days after the date of enactment of this Act.

(d) PLAN.—The Secretary shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, with timelines, for phasing inspectors into selected port facilities within 180 days after the enactment of this Act.

SEC. 507. RANDOM INSPECTION OF CONTAINERS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall develop and implement a plan for random inspection of shipping containers in addition to any targeted or preshipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Under Secretary.

(b) CIVIL PENALTY FOR ERRONEOUS MANIFEST.—

(1) IN GENERAL.—Except as provided in paragraph (2), if the Under Secretary determines on the basis of an inspection conducted under subsection (a) that there is a discrepancy between the contents of a shipping container and the manifest for that container, the Under Secretary may impose a civil penalty.

(2) MANIFEST DISCREPANCY REPORTING.—The Under Secretary may not impose a civil penalty under paragraph (1) if a manifest discrepancy report is filed with respect to the discrepancy within the time limits established by Customs Directive No. 3240–067A (or any subsequently issued directive governing the matters therein) for filing a manifest discrepancy report.

SEC. 508. CARGO SECURITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70122; and

(4) by inserting after section 70120 the following:

''§ 70121. Container security initiative

''(a) IN GENERAL.—Pursuant to the standards established under subsection (b)(1) of section 70116—

''(1) the Secretary of Homeland Security shall promulgate standards and procedures for—

''(A) the inspection of cargo in a foreign port intended for shipment to the United States by physical examination or nonintrusive examination by technological means; and

''(B) evaluating and screening cargo prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port; and

''(2) the Commissioner of Customs and Border Protection shall—

''(A) execute inspection and screening protocols with authorities in foreign ports to ensure that the standards and procedures promulgated under paragraph (1) are implemented in an effective manner; and

''(B) in consultation with the Transportation Security Oversight Board, develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States, either directly or via a foreign port.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

''70117. In rem liability for civil penalties and certain costs
''70118. Withholding of clearance
''70119. Firearms, arrests, and seizure of property
''70120. Enforcement by State and local officers
''70121. Container security initiative
''70122. Civil penalty''.

(2) Section 70117(a) of title 46, United States Code, as redesignated by subsection (a)(3) of this section, is amended by striking ''section 70120'' and inserting ''section 70122''.

(3) Section 70118(a) of such title is amended by striking ''under section 70120,'' and inserting ''under that section,''.

(4) Section 111 of the Maritime Transportation Security Act of 2002 is repealed.

SEC. 509. SECURE SYSTEMS OF INTERNATIONAL INTERMODAL TRANSPORTATION.

(a) IN GENERAL.—Section 70116(a) of title 46, United States Code, is amended—

(1) by striking ''transportation.'' and inserting ''transportation—

''(1) to ensure the security and integrity of shipments of goods to the United States from the point at which such goods are initially packed or loaded for international shipment until they reach their ultimate destination; and

''(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.''.

(b) PROGRAM ENHANCEMENTS.—Section 70116(b) of title 46, United States Code, is amended to read as follows:

''(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Assistant Secretary shall—

''(1) establish standards and procedures for verifying, at the point at which goods are placed in a cargo container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear material and for securely sealing such containers after the contents are so verified;

''(2) establish standards and procedures for securing cargo and monitoring that security while in transit from the point at which it is loaded to the point at which it is finally unloaded;

''(3) develop performance standards to enhance the physical security of shipping containers, including performance standards for seals and locks as part of the container security initiative;

''(4) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

''(5) incorporate any other measures the Assistant Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.''.

(b) PORT SECURITY USER FEE STUDY.—The Secretary of Homeland Security shall conduct a study of the feasibility and desirability of establishing a system of oceanborne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. The Assistant Secretary shall submit a report

containing the Assistant Secretary's findings, conclusions, and recommendations (including legislative recommendations if appropriate) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after date of enactment of this Act.

SEC. 510. TECHNOLOGY FOR MARITIME TRANSPORTATION SECURITY.

(a) MINIMUM TECHNOLOGY IMPLEMENTATION AUTHORIZATION.—Section 70107(i)(2)(B) of title 46, United States Code, is amended by inserting ''not less than'' after ''Secretary''.

(b) SET-ASIDES FOR RESEARCH AND DEVELOPMENT.—Notwithstanding any provision of law to the contrary, in the administration of the Department of Homeland Security, the Secretary of Homeland Security shall ensure that, for each fiscal year beginning after the date of enactment of this Act, not less than—

(1) 8 percent of the amounts appropriated to the Transportation Security Administration and the Directorate of Science and Technology for research and development for the fiscal year are obligated or expended for maritime security related projects or programs; and

(2) 2 percent of such amounts are obligated or expended for rail security related projects or programs.

(c) STRATEGIC PLAN.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall promulgate a strategic plan for transportation research and development. The Secretary shall update the plan no less frequently than every 2 years thereafter.

(2) CONTENTS.—In the strategic plan, the Secretary shall—

(A) ensure that the research needs for security of all modes of transportation, including aviation, maritime, rail, pipeline, and transit security, are addressed;

(B) identify goals and include measurable objectives;

(C) include an adequate amount of basic research;

(D) define the research and development roles of the Transportation Security Administration and the Directorate of Science and Technology, respectively, to ensure that—

(i) they are aligned;

(ii) the efficient use of research funds is maximized; and

(iii) duplication of projects is prevented or minimized;

(E) coordinate transportation research and development under the plan with the transportation research and development activities of other Federal agencies, including the Department of Transportation and the National Aeronautics and Space Administration; and

(F) base the plan on vulnerability and criticality assessments.

(3) ANNUAL EVALUATION.—The Homeland Security Science and Technology Advisory Committee shall evaluate the plan by October 15th each year, measure progress under the plan against the goals set forth in the plan, and recommend changes to the transportation security research program under the plan.

(4) ANNUAL REPORT TO CONGRESS.—The Secretary shall transmit a copy of the strategic plan, and any revisions of that plan, and a copy of the annual evaluations and recommendations made by the Advisory Committee to the Congress.

(d) NIST TRANSPORTATION SECURITY PROGRAM.—The Secretary of Homeland Security may transfer up to $15,000,000 each fiscal year to the National Institute of Science and Technology to be obligated or expended for a focused program in transportation security under section 28 of the National Institute of Science and Technology Act (15 U.S.C. 278n).

(e) SECURE WORKFORCE INITIATIVE.—Section 70107 of title 46, United States Code, is amended by adding at the end the following:

''(j) SECURE WORKFORCE INITIATIVE.—

''(1) IN GENERAL.—The Secretary shall develop a program in conjunction with technical and community colleges to train port security workforces. The program shall focus on teaching port workers to utilize new technologies and processes to improve port security through the use of screening technologies, information technologies, detection devices, incident response training, and other advanced technologies.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security $15,000,000 for each of fiscal years 2005 through 2009 to carry out the program developed under paragraph (1).''.

(f) ESTABLISHMENT OF COMPETITIVE RESEARCH PROGRAM.—

(1) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

''SEC. 314. COMPETITIVE RESEARCH PROGRAM.

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish a competitive research program within the Directorate.

''(2) DIRECTOR.—The program shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

''(3) DUTIES OF DIRECTOR.—In the administration of the program, the Director shall—

''(A) establish a cofunding mechanism for States with academic facilities that have not fully developed security-related science and technology to support burgeoning research efforts by the faculty or link them to established investigators;

''(B) provide for conferences, workshops, outreach, and technical assistance to researchers and institutions of higher education in States on topics related to developing science and technology expertise in areas of high interest and relevance to the Department;

''(C) monitor the efforts of States to develop programs that support the Department's mission;

''(D) implement a merit review program, consistent with program objectives, to ensure the quality of research conducted with Program funding; and

''(E) provide annual reports on the progress and achievements of the Program to the Secretary.

''(b) ASSISTANCE UNDER THE PROGRAM.—

''(1) SCOPE.—The Director shall provide assistance under the program for research and development projects that are related to, or qualify as, homeland security research (as defined in section 307(a)(2)) under the program.

''(2) FORM OF ASSISTANCE.—Assistance under the program can take the form of grants, contracts, or cooperative arrangements.

''(3) APPLICATIONS.—Applicants shall submit proposals or applications in such form, at such times, and containing such information as the Director may require.

''(c) IMPLEMENTATION.—

''(1) START-UP PHASES.—For the first 3 fiscal years beginning after the date of enactment of the Border Infrastructure and Technology Integration Act of 2004, assistance under the program shall be limited to institutions of higher education located in States in which an institution of higher education with a grant from, or a contract or cooperative agreement with, the National Science Foundation under section 113 of the National Science Foundation Act of 1988 (42 U.S.C. 1862) is located.

''(2) SUBSEQUENT FISCAL YEARS.—

''(A) IN GENERAL.—Beginning with the 4th fiscal year after the date of enactment of this Act, the Director shall rank order the States (excluding any noncontiguous State (as defined in section 2(14)) other than Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands) in descending order in terms of the average amount of funds received by institutions of higher education (as that term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in each State that received financial assistance in the form of grants, contracts, or cooperative arrangements under this title during each of the preceding 3 fiscal years.

''(B) ALLOCATION.—Beginning with the 4th fiscal year after the date of enactment of this Act, assistance under the program for any fiscal year is limited to institutions of higher education located in States in the lowest third of those ranked under subparagraph (A) for that fiscal year.

''(C) DETERMINATION OF LOCATION.—For purposes of this paragraph, an institution of higher education shall be considered to be located in the State in which its home campus is located, except that assistance provided under the program to a division, institute, or other facility located in another State for use in that State shall be considered to have been provided to an institution of higher education located in that other State.

''(D) MULTIYEAR ASSISTANCE.—For purposes of this paragraph, assistance under the program that is provided on a multi-year basis shall be counted as provided in each such year in the amount so provided for that year.

''(d) FUNDING.—The Secretary shall ensure that no less than 5 percent of the amount appropriated for each fiscal year to the Acceleration Fund for Research and Development of Homeland Security Technologies established by section 307(c)(1) is allocated to the program established by subsection (a).''.

(2) CONFORMING AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 313 the following:

''Sec. 314. Competitive research program.''.

SEC. 511. DEADLINE FOR TRANSPORTATION SECURITY CARDS.

The Secretary shall issue a final rule under section 70105 of title 46, United States Code, no later than January 1, 2006.

SEC. 512. EVALUATION AND REPORT.

Within 90 days after the date of enactment of this Act the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

(1) an evaluation of the Operation Safe Commerce program and the Customs-Trade Partnership Against Terrorism program;

(2) a report on the establishment and implementation of performance standards for oceanborne and intermodal cargo seals and locks under section 70116(b) of title 46, United States Code;

(3) a report on progress made and current operational practices for monitoring oceanborne cargo through the entire supply chain;

(4) recommendations as to how the practices, programs, and procedures can be further integrated into a wider screening network for oceanborne cargo that can be applied on an international basis;

(5) recommendations as to how inspection and screening procedures developed for

oceanborne cargo might be adapted for application to the shipment of domestically-produced cargo within the United States;

(6) a status report on progress in preparing the plan for implementing secure systems of transportation required by section 809(c) of the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108-293; 118 Stat. 1086);

(7) a report on the security of noncontainerized cargo including roll-on roll-off cargo, break bulk cargo, and liquid and dry bulk cargo; and

(8) a report on whether the increased use of waterborne transportation in the domestic movement of hazardous materials would be an effective and efficient means to enhance the safety of hazardous material shipments.

SEC. 513. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking ''for making a fair and equitable allocation of funds'' and inserting ''based on risk and vulnerability''.

(b) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

''(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.''.

SEC. 514. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) is amended by inserting after ''area.'' the following: ''In this paragraph, the term 'economic disruption' does not include a work stoppage or other nonviolent employee-related action resulting from an employee-employer dispute.''.

SEC. 515. APPEAL OF DENIAL OF WAIVER FOR TRANSPORTATION SECURITY CARD.

Section 70105(c)(3) of title 46, United States Code, is amended by inserting ''or a waiver under paragraph (2)'' after ''card''.

By Mr. LOTT:

S. 1053. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; from the Committee on Rules and Administration; placed on the calendar.

Mr. LOTT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''527 Reform Act of 2005''.

SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.

(a) DEFINITION OF POLITICAL COMMITTEE.—Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended by striking the period at the end of subparagraph (C) and inserting ''; or'' and by adding at the end the following:

''(D) any applicable 527 organization.''.

(b) DEFINITION OF APPLICABLE 527 ORGANIZATION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

''(27) APPLICABLE 527 ORGANIZATION.—For purposes of paragraph (4)(D)—

''(A) IN GENERAL.—The term 'applicable 527 organization' means a committee, club, association, or group of persons that—

''(i) has given notice to the Secretary of the Treasury under section 527(i) of the Internal Revenue Code of 1986 that it is to be treated as an organization described in section 527 of such Code, and

''(ii) is not described in subparagraph (B).

''(B) EXCEPTED ORGANIZATIONS.—A committee, club, association, or other group of persons described in this subparagraph is—

''(i) an organization described in section 527(i)(5) of the Internal Revenue Code of 1986,

''(ii) an organization which is a committee, club, association or other group of persons that is organized, operated, and makes disbursements exclusively for paying expenses described in the last sentence of section 527(e)(2) of the Internal Revenue Code of 1986 or expenses of a newsletter fund described in section 527(g) of such Code,

''(iii) an organization which is a committee, club, association, or other group that consists solely of candidates for State or local office, individuals holding State or local office, or any combination of either, but only if the organization refers only to one or more non-Federal candidates or applicable State or local issues in all of its voter drive activities and does not refer to a Federal candidate or a political party in any of its voter drive activities,

''(iv) an organization which is a committee, club, association, or other group of persons—

''(I) the election or nomination activities of which relate exclusively to any voter drive activity described in subparagraphs (A) through (D) of section 325(d)(1),

''(II) the public communications of which relate exclusively to activities described in subparagraphs (A) through (D) of section 325(d)(1), and

''(III) which does not engage in any broadcast, cable, or satellite communications, or

''(v) an organization described in subparagraph (C).

''(C) APPLICABLE ORGANIZATION.—For purposes of subparagraph (B)(v), an organization described in this subparagraph is a committee, club, association, or other group of persons whose election or nomination activities relate exclusively to—

''(i) elections where no candidate for Federal office appears on the ballot; or

''(ii) one or more of the following purposes:

''(I) Influencing the selection, nomination, election, or appointment of one or more candidates to non-Federal offices.

''(II) Influencing one or more applicable State or local issues.

''(III) Influencing the selection, appointment, nomination, or confirmation of one or more individuals to non-elected offices.

''(D) EXCLUSIVITY TEST.—A committee, club, association, or other group of persons shall not be treated as meeting the exclusivity requirement of subparagraphs (B)(iv) and (C) if it makes disbursements aggregating more than $1,000 for any of the following:

''(i) A public communication that promotes, supports, attacks, or opposes a clearly identified candidate for Federal office during the 1-year period ending on the date of the general election for the office sought by the clearly identified candidate (but if a run-off election is held for that office, the 1-year period shall be extended and shall end on the date of the run-off election).

''(ii) Any voter drive activity during a calendar year, except that no disbursements for any voter drive activity shall be taken into account under this subparagraph if the committee, club, association, or other group of persons during such calendar year—

''(I) makes disbursements for voter drive activities with respect to elections in only 1 State and complies with all applicable election laws of that State, including laws related to registration and reporting requirements and contribution limitations;

''(II) refers to one or more non-Federal candidates or applicable State or local issues in all of its voter drive activities and does not refer to a Federal candidate or a political party;

''(III) does not have a candidate for Federal office, an individual who holds any Federal office, a national political party, or an agent of any of the foregoing, control or materially participate in the direction of the organization, solicit contributions to the organization (other than funds which are described under clauses (i) and (ii) of section 323(e)(1)(B)), or direct disbursements, in whole or in part, by the organization; and

''(IV) makes no contributions to Federal candidates.

Clause (ii) shall not apply to disbursements by any committee, club, or association, or other group of persons described in subparagraph (B)(iv).

''(E) VOTER DRIVE ACTIVITY.—For purposes of this paragraph, the term 'voter drive activity' has the meaning given such term by section 325(d)(1).

''(F) APPLICABLE STATE OR LOCAL ISSUE.—For purposes of this paragraph, the term 'applicable State or local issue' means any State or local ballot initiative, State or local referendum, State or local constitutional amendment, State or local bond issue, or other State or local ballot issue.

''(G) REFERENCE TO FEDERAL CANDIDATES.—For purposes of this paragraph, any prohibition on a reference to a Federal candidate shall not include any reference described in section 325(d)(4).

''(H) REFERENCE TO POLITICAL PARTIES.—For purposes of this paragraph, any prohibition on a reference to a political party shall not include any reference described in section 325(d)(5).''.

(c) REGULATIONS.—The Federal Election Commission shall promulgate regulations to implement this section not later than 60 days after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 60 days after the date of enactment of this Act.

SEC. 3. RULES FOR ALLOCATION OF EXPENSES BETWEEN FEDERAL AND NON-FEDERAL ACTIVITIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''SEC. 325. ALLOCATION AND FUNDING RULES FOR CERTAIN EXPENSES RELATING TO FEDERAL AND NON-FEDERAL ACTIVITIES.

''(a) IN GENERAL.—In the case of any disbursements by any political committee that is a separate segregated fund or nonconnected committee for which allocation rules are provided under subsection (b)—

''(1) the disbursements shall be allocated between Federal and non-Federal accounts in accordance with this section and regulations prescribed by the Commission, and

''(2) in the case of disbursements allocated to non-Federal accounts, may be paid only from a qualified non-Federal account.

''(b) COSTS TO BE ALLOCATED AND ALLOCATION RULES.—Disbursements by any separate segregated fund or nonconnected committee, other than an organization described in section 323(b)(1), for any of the following categories of activity shall be allocated as follows:

''(1) 100 percent of the expenses for public communications or voter drive activities that refer to one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates,

shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

''(2) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications and voter drive activities that refer to one or more clearly identified candidates for Federal office and one or more clearly identified non-Federal candidates shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

''(3) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications or voter drive activities that refer to a political party, but do not refer to any clearly identified Federal or non-Federal candidate, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

''(4) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications or voter drive activities that refer to a political party and refer to one or more clearly identified non-Federal candidates, but do not refer to any clearly identified Federal candidates, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

''(5) Unless otherwise determined by the Commission in its regulations, at least 50 percent of any administrative expenses, including rent, utilities, office supplies, and salaries not attributable to a clearly identified candidate, shall be paid with funds from a Federal account, except that for a separate segregated fund such expenses may be paid instead by its connected organization.

''(6) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-Federal funds are collected through such program or event shall be paid with funds from a Federal account, except that for a separate segregated fund such costs may be paid instead by its connected organization. This paragraph shall not apply to any fundraising solicitations or any other activity that constitutes a public communication.

''(c) QUALIFIED NON-FEDERAL ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified non-Federal account' means an account which consists solely of amounts—

''(A) that, subject to the limitations of paragraphs (2) and (3), are raised by the separate segregated fund or nonconnected committee only from individuals, and

''(B) with respect to which all requirements of Federal, State, or local law (including any law relating to contribution limits) are met.

''(2) LIMITATION ON INDIVIDUAL DONATIONS.—

''(A) IN GENERAL.—A separate segregated fund or nonconnected committee may not accept more than $25,000 in funds for its qualified non-Federal account from any one individual in any calendar year.

''(B) AFFILIATION.—For purposes of this paragraph, all qualified non-Federal accounts of separate segregated funds or nonconnected committees which are directly or indirectly established, financed, maintained, or controlled by the same person or persons shall be treated as one account.

''(3) FUNDRAISING LIMITATION.—

''(A) IN GENERAL.—No donation to a qualified non-Federal account may be solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e) of section 323.

''(B) FUNDS NOT TREATED AS SUBJECT TO ACT.—Except as provided in subsection (a)(2) and this subsection, any funds raised for a qualified non-Federal account in accordance with the requirements of this section shall not be considered funds subject to the limitations, prohibitions, and reporting requirements of this Act for any purpose (including for purposes of subsection (a) or (e) of section 323 or subsection (d)(2) of this section).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) VOTER DRIVE ACTIVITY.—The term 'voter drive activity' means any of the following activities conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot):

''(A) Voter registration activity.

''(B) Voter identification.

''(C) Get-out-the-vote activity.

''(D) Generic campaign activity.

''(E) Any public communication related to activities described in subparagraphs (A) through (D).

Such term shall not include any activity described in subparagraph (A) or (B) of section 316(b)(2).

''(2) FEDERAL ACCOUNT.—The term 'Federal account' means an account which consists solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this section or in section 323(b)(2)(B)(iii) shall be construed to infer that a limit other than the limit under section 315(a)(1)(C) applies to contributions to the account.

''(3) NONCONNECTED COMMITTEE.—The term 'nonconnected committee' shall not include a political committee of a political party.

''(4) CERTAIN REFERENCES TO FEDERAL CANDIDATES NOT TAKEN INTO ACCOUNT.—A public communication or voter drive activity shall not be treated as referring to any clearly identified Federal candidate if the only reference is—

''(A) a reference, in connection with an election for a non-Federal office, to a Federal candidate who is also a candidate for such non-Federal office; or

''(B) a reference to the fact that a Federal candidate has endorsed a non-Federal candidate or an applicable State or local issue (as defined in section 301(27)(F)), including a reference that constitutes the endorsement itself.

''(5) CERTAIN REFERENCES TO POLITICAL PARTIES NOT TAKEN INTO ACCOUNT.—A public communication or voter drive activity shall not be treated as referring to a political party if the only reference is—

''(A) a reference to a political party for the purpose of identifying a non-Federal candidate;

''(B) a reference to a political party for the purpose of identifying the entity making the public communication or carrying out the voter drive activity; or

''(C) a reference to a political party in a manner or context that does not reflect support for or opposition to a Federal candidate or candidates and does reflect support for or opposition to a State or local candidate or candidates or an applicable State or local issue.''.

(b) REPORTING REQUIREMENTS.—Section 304(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(e)) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) RECEIPTS AND DISBURSEMENTS FROM QUALIFIED NON-FEDERAL ACCOUNTS.—In addition to any other reporting requirement applicable under this Act, a political committee to which section 325(a) applies shall report all receipts and disbursements from a qualified non-Federal account (as defined in section 325(c)).''.

(c) REGULATIONS.—The Federal Election Commission shall promulgate regulations to implement the amendments made by this section not later than 180 days after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of enactment of this Act.

SEC. 4. TELEVISION MEDIA RATES.

(a) LOWEST UNIT CHARGE.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by adding at the end the following:

''(f) TELEVISION MEDIA RATES.—

''(1) LOWEST UNIT CHARGE.—Notwithstanding any other provision of law, the charges made for the use of any television broadcast station, or by a provider of cable or satellite television service, to any person who is a legally qualified candidate for any public office in connection with the campaign of such candidate for nomination for election, or election, to such office or by a national committee of a political party on behalf of such candidate in connection with such campaign, shall not exceed the lowest charge of the station (at any time during the 365-day period preceding the date of the use) for pre-emptible use thereof for the same amount of time for the same period.

''(2) PREEMPTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), and notwithstanding the requirements of paragraph (1), a licensee shall not preempt the use of a broadcasting station by an eligible candidate or political committee of a political party who has purchased and paid for such use.

''(B) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program shall be treated in the same fashion as a comparable commercial advertising spot.

''(3) AUDITS.—

''(A) IN GENERAL.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this subsection applies is allocating television broadcast advertising time in accordance with this subsection and section 312.

''(B) MARKETS.—Each audit conducted under subparagraph (A) shall cover the following markets:

''(i) At least 6 of the top 50 largest designated market areas (as defined in section 122(j)(2)(C) of title 17, United States Code).

''(ii) At least 3 of the 51–100 largest designated market areas (as so defined).

''(iii) At least 3 of the 101–150 largest designated market areas (as so defined).

''(iv) At least 3 of the 151–210 largest designated market areas (as so defined).

''(C) BROADCAST STATIONS.—Each audit conducted under subparagraph (A) shall include each of the 3 largest television broadcast networks, 1 independent network, and 1 cable network.''.

(b) CONFORMING AMENDMENT.—Section 504 of the Bipartisan Campaign Reform Act of

2002 (Public Law 107-155) is amended by striking ''315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and'' and inserting ''315) is amended by''.

(c) STYLISTIC AMENDMENTS.—Section 315(c) the Communications Act of 1934 (47 U.S.C. 315(c)) is amended—

(1) by striking ''For purposes of this section—'' and inserting ''In this section:'';

(2) in paragraph (1), by striking ''the'' and inserting ''BROADCASTING STATION.—The''; and

(3) in paragraph (2), by striking ''the'' and inserting ''LICENSEE; STATION LICENSEE.—The''.

SEC. 5. MODIFICATION OF DEFINITION OF PUBLIC COMMUNICATION.

(a) IN GENERAL.—Paragraph (22) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(22)) is amended by adding at the end the following new sentence: ''Such term shall not include communications over the Internet.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 6. INCREASE IN CONTRIBUTION LIMITS FOR POLITICAL COMMITTEES.

(a) INCREASE IN POLITICAL COMMITTEE CONTRIBUTION LIMITS.—Section 315(a)(1)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(C)) is amended by striking ''$5,000'' and inserting ''$7,500''.

(b) INCREASE IN MULTICANDIDATE LIMITS.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (A), by striking ''$5,000'' and inserting ''$7,500'';

(2) in subparagraph (B), by striking ''$15,000'' and inserting ''$25,000''; and

(3) in subparagraph (C), by striking ''$5,000'' and inserting ''$7,500''.

(c) INDEXING.—

(1) IN GENERAL.—Section 315(c)(1)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)(1)(B)) is amended to read as follows:

''(B) Except as provided in subparagraph (C)—

''(i) in any calendar year after 2002—

''(I) a limitation established by subsection (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

''(II) each amount so increased shall remain in effect for the calendar year; and

''(III) if any amount after the adjustment under subclause (I) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100; and

''(ii) in any calendar year after 2006—

''(I) a limitation established by subsection (a)(1)(C), (a)(1)(D), or (a)(2) shall be increased by the percent difference determined under subparagraph (A);

''(II) each amount so increased shall remain in effect for the calendar year; and

''(III) if any amount after the adjustment under subclause (I) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.''.

(2) CONFORMING AMENDMENTS.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(A) in paragraph (1)(C), by striking ''subsections (a)(1)(A), (a)(1)(B), (a)(3),'' and inserting ''subsections (a)''; and

(B) in paragraph (2)(B)—

(i) by striking ''and'' at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting ''; and''; and

(iii) by adding at the end the following new clause:

''(iii) for purposes of subsections (a)(1)(C), (a)(1)(D) and (a)(2), calendar year 2005.''.

(d) SPECIAL RULE FOR TRANSFERS FROM LEADERSHIP PACS TO NATIONAL PARTY COMMITTEES.—Paragraph (4) of section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)) is amended—

(1) by inserting ''(A)'' before ''The limitations''; and

(2) by adding at the end the following:

''(B) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between any committee (other than an authorized committee) established, financed, maintained, or controlled by a candidate or an individual holding a Federal office and political committees established and maintained by a national political party.''.

(e) ELIMINATION OF CERTAIN RESTRICTIONS ON SOLICITATIONS BY CORPORATIONS AND LABOR ORGANIZATIONS.—

(1) WRITTEN SOLICITATIONS.—Subparagraph (B) of section 316(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(4)(B)) is amended—

(A) by striking ''2''; and

(B) by striking ''during the calendar year''.

(2) PRIOR APPROVAL OF SOLICITATION FOR TRADE ASSOCIATIONS.—Subparagraph (D) of section 316(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(4)(D)) is amended by striking ''to the extent that such solicitation'' and all that follows and inserting a period.

(f) INCREASE IN THRESHOLD FOR POLITICAL COMMITTEES.—

(1) IN GENERAL.—Section 301(4)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)(A)) is amended by striking ''$1,000'' each place it appears and inserting ''$10,000''.

(2) LOCAL COMMITTEES.—

(A) CONTRIBUTIONS RECEIVED.—Section 301(4)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)(C)) is amended by striking ''$5,000'' each place it appears and inserting ''$10,000''.

(B) CONTRIBUTIONS MADE.—Section 301(4)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)(C)) is amended by striking ''$1,000'' each place it appears and inserting ''$10,000''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2005.

SEC. 7. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 8. CONSTRUCTION.

No provision of this Act, or amendment made by this Act, shall be construed—

(1) as approving, ratifying, or endorsing a regulation promulgated by the Federal Election Commission,

(2) as establishing, modifying, or otherwise affecting the definition of political organization for purposes of the Internal Revenue Code of 1986, or

(3) as affecting the determination of whether a group organized under section 501(c) of the Internal Revenue Code of 1986 is a political committee under section 301(4) of the Federal Election Campaign Act of 1971.

SEC. 9. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any Member of the House of Representatives (including a Delegate or Resident Commissioner to Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY.—

(1) INITIAL CLAIMS.—With respect to any action initially filed on or before December 31, 2008, the provisions of subsection (a) shall apply with respect to each action described in such subsection.

(2) SUBSEQUENT ACTIONS.—With respect to any action initially filed after December 31, 2008, the provisions of subsection (a) shall not apply to any action described in such subsection unless the person filing such action elects such provisions to apply to the action.

By Mrs. FEINSTEIN (for herself and Mr. ENSIGN):

S. 1054. A bill to amend the Elementary and Secondary Education Act of 1965 to specify the purposes for which funds provided under part A of title I may be used; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President. I rise today with Senator ENSIGN to introduce a bill to ensure that Title I funds are directed towards instructional services to teach our neediest students.

Title I provides assistance to virtually every school district in the country to serve children attending schools with high concentrations of low-income students, from preschool to high school.

It has been the ''anchor'' of Federal assistance to schools, since its inception in 1965. Although it has always

been the intent of Congress for Title I funds to be used for instruction and instructional services, the Federal Government has never provided a clear definition of what instructional services should entail.

This lack of federal guidance has become especially clear now, as States scramble to comply with the Title I accountability standards established in ''No Child Left Behind.''

While State Administrators of Title I are directed by law to meet these specific requirements, they have been given little guidance as to how to ensure that they are in compliance with the law.

I believe that the Federal Government is responsible for making this process as clear to States as possible.

In my view, as it relates to Title I, we have not lived up to our end of the bargain.

During consideration of ''No Child Left Behind,'' I worked hard to get my bill defining appropriate Title I uses included in the Senate version of the bill.

Unfortunately, during conference consideration, my bill was stripped out and in its place language directing the General Accounting Office (GAO) to report on how states use their Title I funds was inserted.

In April 2003, GAO released the report that Congress directed them to submit on Title I Administrative Expenditures.

What GAO found is that while districts spent a relatively small amount, no more than 13 percent, of Title I funds on administrative services, these findings were based on their own definition ''because there is no common definition on what constitutes administrative expenditures.''

Therefore, the accounting office could not precisely measure how much of schools' Title I funds were used for administration.

Because Title I funds are not defined consistently throughout the states, the accounting office created their own definition by compiling aspects of state priorities to complete the report.

You see, the very reason I worked to define how Title I funds should be used—to create consistency and distribution priority nationwide—became the definitive aspect preventing GAO from effectively drawing conclusions to their report.

The report highlights two concerns that I have with the absence of universal definitions in the Title I program: the lack of Federal guidance on effective uses of Title I funds. The government's inability to accurately measure whether the academic needs of low-income students are being met.

My bill takes some strong steps by balancing the needs for states to retain Title I flexibility and providing them with the guidance needed to administer the program uniformly throughout the country.

Current law on Title I is much too vague.

It says, ''a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.''

Basically, it says that Title I funds are to be used for the ''education of pupils.'' This is too nebulous.

The U.S. Department of Education has given states a guidance document that explains how Title I funds can be used.

Under this guidance document, only two uses are specifically prohibited: 1. construction or acquisition of real property; and 2. payment to parents to attend a meeting or training session or to reimburse a parent for a salary lost due to attendance at a ''parental involvement'' meeting.

I believe we should give the Department, states and districts a clearer guidance in law.

This legislation does the following: defines Title I direct and indirect instructional services. Sets a standard for the amount of Title I funds that can be used to achieve the academic and administrative objectives of this program. Ensures that the majority of Title I funds are used to improve academic achievement by stipulating that a local educational agency may use not more than 10 percent of Title I funds received for indirect instructional services.

By limiting the amount of funds that schools can spend on administrative or indirect services, school districts are restricted from shuffling the majority of Title I to pay for non-academic services, but it also gives the districts flexibility to use the remaining funds for the indirect costs administering Title I distribution.

Furthermore, by defining direct and indirect services, all states can apply the same standards for how Title I funds are used nationwide.

Examples of permissible Direct Services are: employing teachers and other instructional personnel, including employee benefits. Intervening and taking corrective actions to improve student achievement. Extending academic instruction beyond the normal school day and year, including summer school. Providing instructional services to pre-kindergarten children for the transition to kindergarten. Purchasing instructional resources such as books, materials, computers, and other instructional equipment. Professional development. Developing and administering curriculum, educational materials and assessments.

Examples of Indirect Services limited to no more than 10 percent of Title I expenditures are: business services relating to administering the program. Purchasing or providing facilities maintenance, janitorial, gardening, or landscaping services or the payment of utility costs. Buying food. Paying for travel to and attendance at conferences or meetings, except if necessary for professional development.

My reasons for introducing this bill are two-fold: First, I believe that states must use their limited federal dollars for the fundamental purpose of providing academic instruction to help students learn.

Secondly, I believe that it is nearly impossible to do so without providing a clear definition of what is considered an instructional service.

I am not suggesting that it is the fault of the school districts for not focusing their Title I funds on academic instruction. They are simply exercising the flexibility that Congress has given them.

If Congress also intended for those funds to educate our neediest children, Federal guidance must be given to ensure that it happens.

It is my view that Title I cannot do everything. Federal funding is only 8 percent of the total funding for elementary and secondary education and Title I is even a smaller percentage of total support for public schools.

That is why it is imperative to better focus Title I funds on academic instruction, teaching the fundamentals and helping disadvantaged children achieve.

Schools must focus their general administrative budget to pay for expenses that fall outside of the realm of direct educational services and retain the majority of Federal funds to improve academic achievement.

It is time to better direct Title I funds to the true goal of education: to help students learn. This is one step towards that important goal.

I urge my colleagues to support this legislation.

I ask for unanimous consent that the text of the legislation directly follow this statement in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Title I Integrity Act of 2005''.

SEC. 2. DIRECT AND INDIRECT INSTRUCTIONAL SERVICES.

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

''SEC. 1120C. DIRECT AND INDIRECT INSTRUCTIONAL SERVICES.

''(a) IN GENERAL.—

''(1) USE OF FUNDS.—Notwithstanding any other provision of this Act, a local educational agency shall use funds received under this part only for direct instructional services and indirect instructional services.

''(2) LIMITATION ON INDIRECT INSTRUCTIONAL SERVICES.—A local educational agency may use not more than 10 percent of funds received under this part for indirect instructional services.

''(b) INSTRUCTIONAL SERVICES.—

''(1) DIRECT INSTRUCTIONAL SERVICES.—In this section, the term 'direct instructional services' means—

''(A) the implementation of instructional interventions and corrective actions to improve student achievement;

''(B) the extension of academic instruction beyond the normal school day and year, including during summer school;

''(C) the employment of teachers and other instructional personnel, including providing teachers and instructional personnel with employee benefits;

''(D) the provision of instructional services to prekindergarten children to prepare such children for the transition to kindergarten;

''(E) the purchase of instructional resources, such as books, materials, computers, other instructional equipment, and wiring to support instructional equipment;

''(F) the development and administration of curricula, educational materials, and assessments;

''(G) the transportation of students to assist the students in improving academic achievement;

''(H) the employment of title I coordinators, including providing title I coordinators with employee benefits; and

''(I) the provision of professional development for teachers and other instructional personnel.

''(2) INDIRECT INSTRUCTIONAL SERVICES.—In this section, the term 'indirect instructional services' includes—

''(A) the purchase or provision of facilities maintenance, gardening, landscaping, or janitorial services, or the payment of utility costs;

''(B) the payment of travel and attendance costs at conferences or other meetings;

''(C) the payment of legal services;

''(D) the payment of business services, including payroll, purchasing, accounting, and data processing costs; and

''(E) any other services determined appropriate by the Secretary that indirectly improve student achievement.''.

By Mr. KENNEDY:

S. 1055. A bill to improve elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the text of the bill I introduced today, an Act to improve elementary and secondary education that may be cited as the ''No Child Left Behind Improvement Act of 2005,'' be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''No Child Left Behind Improvement Act of 2005''.

TITLE I—PUBLIC SCHOOL CHOICE, SUPPLEMENTAL EDUCATIONAL SERVICES, AND TEACHER QUALITY

SEC. 101. PUBLIC SCHOOL CHOICE CAPACITY.

(a) SCHOOL CAPACITY.—Section 1116(b)(1)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(1)(E)) is amended—

(1) in clause (i), by striking ''In the case'' and inserting ''Subject to clauses (ii) and (iii), in the case'';

(2) by redesignating clause (ii) as clause (iii);

(3) by inserting after clause (i) the following:

''(ii) SCHOOL CAPACITY.—The obligation of a local educational agency to provide the option to transfer to students under clause (i) is subject to all applicable State and local health and safety code requirements regarding facility capacity.''; and

(4) in clause (iii) (as redesignated by paragraph (2)), by inserting ''and subject to clause (ii),'' after ''public school,''.

(b) GRANTS FOR SCHOOL CONSTRUCTION AND RENOVATION.—Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

''SEC. 1120C. GRANTS FOR SCHOOL CONSTRUCTION AND RENOVATION.

''(a) PROGRAM AUTHORIZED.—From funds appropriated under subsection (g), the Secretary is authorized to award grants to local educational agencies experiencing overcrowding in the schools served by the local educational agencies, for the construction and renovation of safe, healthy, high-performance school buildings.

''(b) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to local educational agencies—

''(1) who have documented difficulties in meeting the public school choice requirements of paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i) of section 1116(b), or section 1116(c)(10)(C)(vii); and

''(2) with the highest number of schools at or above capacity.

''(d) AWARD BASIS.—From funds remaining after awarding grants under subsection (c), the Secretary shall award grants to local educational agencies that are experiencing overcrowding in the schools served by the local educational agencies.

''(e) PREVAILING WAGES.—Any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction funded by a grant awarded under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act).

''(f) DEFINITIONS.—In this section:

''(1) AT OR ABOVE CAPACITY.—The term 'at or above capacity', in reference to a school, means a school in which 1 additional student would increase the average class size of the school above the average class size of all schools in the State in which the school is located.

''(2) HEALTHY, HIGH-PERFORMANCE SCHOOL BUILDING.—The term 'healthy, high-performance school building' has the meaning given such term in section 5586.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $250,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.''.

SEC. 102. SUPPLEMENTAL EDUCATIONAL SERVICES.

Section 1116(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (B), by striking the semicolon and inserting '', including criteria that—

''(i) ensure that personnel delivering supplemental educational services to students have adequate qualifications; and

''(ii) may, at the State's discretion, ensure that personnel delivering supplemental educational services to students are teachers that are highly qualified, as such term is defined in section 9101;'';

(B) in subparagraph (D), by striking ''and'' after the semicolon;

(C) in subparagraph (E), by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(F) ensure that the list of approved providers of supplemental educational services described in subparagraph (C) includes a choice of providers that have sufficient capacity to provide effective services for children who are limited English proficient and children with disabilities.'';

(2) in paragraph (5)(C)—

(A) by striking ''applicable''; and

(B) by inserting before the period '', and acknowledge in writing that, as an approved provider in the relevant State educational agency program of providing supplemental educational services, the provider is deemed to be a recipient of Federal financial assistance'';

(3) by redesignating paragraphs (6), (7), (8), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10), (11), (12), and (13), respectively;

(4) by inserting after paragraph (5) the following:

''(6) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a local educational agency from being considered by a State educational agency as a potential provider of supplemental educational services under this subsection, if such local educational agency meets the criteria adopted by the State educational agency in accordance with paragraph (5).'';

(5) in paragraph (13) (as redesignated by paragraph (3))—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''and'' after the semicolon;

(ii) in clause (iii), by striking ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(iv) may employ teachers who are highly qualified as such term is defined in section 9101; and

''(v) pursuant to its inclusion on the relevant State educational agency's list described in paragraph (4)(C), is deemed to be a recipient of Federal financial assistance; and''; and

(B) in subparagraph (C)—

(i) in the matter preceding subclause (i), by striking ''are'';

(ii) in subclause (i)—

(I) by inserting ''are'' before ''in addition''; and

(II) by striking ''and'' after the semicolon;

(iii) in subclause (ii), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(iii) if provided by providers that are included on the relevant State educational agency's list described in paragraph (4)(C), shall be deemed to be programs or activities of the relevant State educational agency.''; and

(6) by adding at the end the following:

''(14) CIVIL RIGHTS.—In providing supplemental educational services under this subsection, no State educational agency or local educational agency may, directly or through contractual, licensing, or other arrangements with a provider of supplemental educational services, engage in any form of discrimination prohibited by—

''(A) title VI of the Civil Rights Act of 1964;

''(B) title IX of the Education Amendments of 1972;

''(C) section 504 of the Rehabilitation Act of 1973;

''(D) titles II and III of the Americans with Disabilities Act;

''(E) the Age Discrimination Act of 1975;

''(F) regulations promulgated under the authority of the laws listed in subparagraphs (A) through (E); or

''(G) other Federal civil rights laws.''.

SEC. 103. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

(a) HIGH OBJECTIVE UNIFORM STATE STANDARD OF EVALUATION.—Section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319) is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting as appropriate;

(B) by striking ''(2) state plan.—As part'' and inserting the following:

''(2) STATE PLAN.—

''(A) IN GENERAL.—As part''; and

(C) by adding at the end the following:

''(B) AVAILABILITY OF STATE STANDARDS.—Each State educational agency shall make available to teachers in the State the high objective uniform State standard of evaluation, as described in section 9101(23)(C)(ii), for the purpose of meeting the teacher qualification requirements established under this section.'';

(2) by redesignating subsections (e), (f), (g), (h), (i), (j), (k), and (l) as subsections (f), (g), (h), (i), (j), (k), (l), and (m), respectively;

(3) by inserting after subsection (d) the following:

''(e) STATE RESPONSIBILITIES.—Each State educational agency shall ensure that local educational agencies in the State make available all options described in subparagraphs (A) through (C) of subsection (c)(1) to each new or existing paraprofessional for the purpose of demonstrating the qualifications of the paraprofessional, consistent with the requirements of this section.''; and

(4) in subsection (l) (as redesignated in paragraph (2)), by striking ''subsection (l)'' and inserting ''subsection (m)''.

(b) DEFINITION OF HIGHLY QUALIFIED TEACHERS.—Section 9101(23)(B)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)(B)(ii)) is amended—

(1) in subclause (I), by striking ''or'' after the semicolon;

(2) in subclause (II), by striking ''and'' after the semicolon; and

(3) by adding at the end the following:

''(III) in the case of a middle school teacher, passing a State-approved middle school generalist exam when the teacher receives a license to teach middle school in the State;

''(IV) obtaining a State middle school or secondary school social studies certificate that qualifies the teacher to teach history, geography, economics, civics, and government in middle schools or in secondary schools, respectively, in the State; or

''(V) obtaining a State middle school or secondary school science certificate that qualifies the teacher to teach earth science, biology, chemistry, and physics in middle schools or secondary schools, respectively, in the State; and''.

SEC. 104. ENSURING HIGHLY QUALIFIED TEACHERS.

(a) REQUIREMENT.—The Secretary of Education shall improve coordination among the teacher quality programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), to provide a unified effort in strengthening the American teaching workforce and ensuring highly qualified teachers.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall submit a report to the relevant committees of Congress on efforts to coordinate programs pursuant to subsection (a), which shall be made available on the website of the Department of Education.

TITLE II—ADEQUATE YEARLY PROGRESS DETERMINATIONS

SEC. 201. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR SCHOOLS FOR THE 2002–2003 SCHOOL YEAR.

(a) IN GENERAL.—The Secretary shall require each local educational agency to provide each school served by the agency with an opportunity to request a review of a determination by the agency that the school did not make adequate yearly progress for the 2002–2003 school year.

(b) FINAL DETERMINATION.—Not later than 30 days after receipt of a request by a school for a review under this section, a local educational agency shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002–2003 school year.

(c) EVIDENCE.—In conducting a review under this section, a local educational agency shall—

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002–2003 school year; and

(2) consider that evidence before making a final determination under subsection (b).

(d) STANDARD OF REVIEW.—In conducting a review under this section, a local educational agency shall revise, consistent with the applicable State plan under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), the local educational agency's original determination that a school did not make adequate yearly progress for the 2002–2003 school year if the agency finds that the school made such progress, taking into consideration—

(1) the amendments made to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68698) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities); or

(2) any regulation or guidance that, subsequent to the date of such original determination, was issued by the Secretary relating to—

(A) the assessment of limited English proficient children;

(B) the inclusion of limited English proficient children as part of the subgroup described in section 1111(b)(2)(C)(v)(II)(dd) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)(dd)) after such children have obtained English proficiency; or

(C) any requirement under section 1111(b)(2)(I)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(I)(ii)).

(e) EFFECT OF REVISED DETERMINATION.—

(1) IN GENERAL.—If pursuant to a review under this section a local educational agency determines that a school made adequate yearly progress for the 2002–2003 school year, upon such determination—

(A) any action by the Secretary, the State educational agency, or the local educational agency that was taken because of a prior determination that the school did not make such progress shall be terminated; and

(B) any obligations or actions required of the local educational agency or the school because of the prior determination shall cease to be required.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), a determination under this section shall not affect any obligation or action required of a local educational agency or school under the following:

(A) Section 1116(b)(13) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(13)) (requiring a local educational agency to continue to permit a child who transferred to another school under such section to remain in that school until completion of the highest grade in the school).

(B) Section 1116(e)(9) of the Elementary and Secondary Education Act of 1965 (as redesignated by section 102(3)) (20 U.S.C. 6316(e)(9)) (requiring a local educational agency to continue to provide supplemental educational services under such section until the end of the school year).

(3) SUBSEQUENT DETERMINATIONS.—In determining whether a school is subject to school improvement, corrective action, or restructuring as a result of not making adequate yearly progress, the Secretary, a State educational agency, or a local educational agency may not take into account a determination that the school did not make adequate yearly progress for the 2002–2003 school year if such determination was revised under this section and the school received a final determination of having made adequate yearly progress for the 2002–2003 school year.

(f) NOTIFICATION.—The Secretary—

(1) shall require each State educational agency to notify each school served by the agency of the school's ability to request a review under this section; and

(2) not later than 30 days after the date of enactment of this section, shall notify the public by means of the Department of Education's website of the review process established under this section.

SEC. 202. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR LOCAL EDUCATIONAL AGENCIES FOR THE 2002–2003 SCHOOL YEAR.

(a) IN GENERAL.—The Secretary shall require each State educational agency to provide each local educational agency in the State with an opportunity to request a review of a determination by the State educational agency that the local educational agency did not make adequate yearly progress for the 2002–2003 school year.

(b) APPLICATION OF CERTAIN PROVISIONS.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 201 shall apply to review by a State educational agency of a determination described in subsection (a) in the same manner and to the same extent as such provisions apply to review by a local educational agency of a determination described in section 201(a).

SEC. 203. DEFINITIONS.

In this title:

(1) The term ''adequate yearly progress'' has the meaning given to that term in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)).

(2) The term ''local educational agency'' means a local educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(3) The term ''Secretary'' means the Secretary of Education.

(4) The term ''school'' means an elementary school or a secondary school (as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) served under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(5) The term ''State educational agency'' means a State educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

TITLE III—IMPROVING ASSESSMENT AND ACCOUNTABILITY

SEC. 301. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF ASSESSMENT AND ACCOUNTABILITY.

(a) PROGRAM AUTHORIZED.—From funds appropriated under subsection (g) for a fiscal year, the Secretary may award grants, on a competitive basis, to State educational agencies—

(1) to enable the State educational agencies to develop or increase the capacity of data systems for assessment and accountability purposes, including the collection of graduation rates; and

(2) to award subgrants to increase the capacity of local educational agencies to upgrade, create, or manage longitudinal data systems for the purpose of measuring student academic progress and achievement.

(b) STATE APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) STATE USE OF FUNDS.—Each State educational agency that receives a grant under this section shall use—

(1) not more than 20 percent of the grant funds for the purpose of—

(A) increasing the capacity of, or creating, State databases to collect, disaggregate, and report information related to student achievement, enrollment, and graduation rates for assessment and accountability purposes; and

(B) reporting, on an annual basis, for the elementary schools and secondary schools within the State, on—

(i) the enrollment data from the beginning of the academic year;

(ii) the enrollment data from the end of the academic year; and

(iii) the twelfth grade graduation rates; and

(2) not less than 80 percent of the grant funds to award subgrants to local educational agencies within the State to enable the local educational agencies to carry out the authorized activities described in subsection (e).

(d) LOCAL APPLICATION.—Each local educational agency desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Each such application shall include, at a minimum, a demonstration of the local educational agency's ability to put a longitudinal data system in place.

(e) LOCAL AUTHORIZED ACTIVITIES.—Each local educational agency that receives a subgrant under this section shall use the subgrant funds to increase the capacity of the local educational agency to upgrade or manage longitudinal data systems consistent with the uses in subsection (c)(1), by—

(1) purchasing database software or hardware;

(2) hiring additional staff for the purpose of managing such data;

(3) providing professional development or additional training for such staff; and

(4) providing professional development or training for principals and teachers on how to effectively use such data to implement instructional strategies to improve student achievement and graduation rates.

(f) DEFINITIONS.—In this section:

(1) The term ''graduation rate'' means the percentage that—

(A) the total number of students who—

(i) graduate from a secondary school with a regular diploma (which shall not include the recognized equivalent of a secondary school diploma or an alternative degree) in an academic year; and

(ii) graduated on time by progressing 1 grade per academic year; represents of

(B) the total number of students who entered the secondary school in the entry level academic year applicable to the graduating students.

(2) The terms ''State educational agency'' and ''local educational agency'' have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) The term ''Secretary'' means the Secretary of Education.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

SEC. 302. GRANTS FOR ASSESSMENT OF CHILDREN WITH DISABILITIES AND CHILDREN WHO ARE LIMITED ENGLISH PROFICIENT.

Part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) is amended by adding at the end the following:

''SEC. 1505. GRANTS FOR ASSESSMENT OF CHILDREN WITH DISABILITIES AND CHILDREN WHO ARE LIMITED ENGLISH PROFICIENT.

''(a) GRANTS AUTHORIZED.—From amounts authorized under subsection (e) for a fiscal year, the Secretary shall award grants, on a competitive basis, to State educational agencies, or to consortia of State educational agencies, to enable the State educational agencies or consortia to collaborate with institutions of higher education, research institutions, or other organizations—

''(1) to design and improve State academic assessments for students who are limited English proficient and students with disabilities; and

''(2) to ensure the most accurate, valid, and reliable means to assess academic content standards and student academic achievement standards for students who are limited English proficient and students with disabilities.

''(b) AUTHORIZED ACTIVITIES.—A State educational agency or consortium that receives a grant under this section shall use the grant funds to carry out 1 or more of the following activities:

''(1) Developing alternate assessments for students with disabilities, consistent with section 1111 and the amendments made on December 9, 2003, to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68698) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities), including—

''(A) the alignment of such assessments, as appropriate and consistent with such amendments, with—

''(i) State academic achievement standards and State academic content standards for all students; or

''(ii) alternate State academic achievement standards that reflect the intended instructional construct for students with disabilities;

''(B) activities to ensure that such assessments do not reflect the disabilities, or associated characteristics, of the students that are extraneous to the intent of the measurement;

''(C) the development of an implementation plan for pilot tests for such assessments, in order to determine the level of appropriateness and feasibility of full-scale administration; and

''(D) activities that provide for the retention of all feasible standardized features in the alternate assessments.

''(2) Developing alternate assessments that meet the requirements of section 1111 for students who are limited English proficient, including—

''(A) the alignment of such assessments with State academic achievement standards and State academic content standards for all students;

''(B) the development of parallel native language assessments or linguistically modified assessments for limited English proficient students that meet the requirements of section 1111(b)(3)(C)(ix)(III);

''(C) the development of an implementation plan for pilot tests for such assessments, in order to determine the level of appropriateness and feasibility of full-scale administration; and

''(D) activities that provide for the retention of all feasible standardized features in the alternate assessments.

''(3) Developing, modifying, or revising State policies and criteria for appropriate accommodations to ensure the full participation of students who are limited English proficient and students with disabilities in State academic assessments, including—

''(A) developing a plan to ensure that assessments provided with accommodations are fully included and integrated into the accountability system, for the purpose of making the determinations of adequate yearly progress required under section 1116;

''(B) ensuring the validity, reliability, and appropriateness of such accommodations, such as—

''(i) a modification to the presentation or format of the assessment;

''(ii) the use of assistive devices;

''(iii) an extension of the time allowed for testing;

''(iv) an alteration of the test setting or procedures;

''(v) the administration of portions of the test in a method appropriate for the level of language proficiency of the test taker;

''(vi) the use of a glossary or dictionary; and

''(vii) the use of a linguistically modified assessment;

''(C) ensuring that State policies and criteria for appropriate accommodations take into account the form or program of instruction provided to students, including the level of difficulty, reliability, cultural difference, and content equivalence of such form or program;

''(D) ensuring that such policies are consistent with the standards prepared by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education; and

''(E) developing a plan for providing training on the use of accommodations to school instructional staff, families, students, and other appropriate parties.

''(4) Developing universally designed assessments that can be accessible to all students, including—

''(A) examining test item or test performance for students with disabilities and students who are limited English proficient, to determine the extent to which the test item or test is universally designed;

''(B) using think aloud and cognitive laboratory procedures, as well as item statistics, to identify test items that may pose particular problems for students with disabilities or students who are limited English proficient;

''(C) developing and implementing a plan to ensure that developers and reviewers of test items are trained in the principles of universal design; and

''(D) developing computer-based applications of universal design principles.

''(c) APPLICATION.—Each State educational agency, or consortium of State educational agencies, desiring to apply for a grant under

this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) information regarding the institutions of higher education, research institutions, or other organizations that are collaborating with the State educational agency or consortium, in accordance with subsection (a);

''(2) in the case of a consortium of State educational agencies, the designation of 1 State educational agency as the fiscal agent for the receipt of grant funds;

''(3) a description of the process and criteria by which the State educational agency will identify students that are unable to participate in general State content assessments and are eligible to take alternate assessments, consistent with the amendments made to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68698);

''(4) in the case of a State educational agency or consortium carrying out the activity described in subsection (b)(1)(A), a description of how the State educational agency or consortium plans to fulfill the requirement of subsection (b)(1)(A);

''(5) in the case of a State educational agency or consortium carrying out the activities described in paragraphs (1), (2), and (4) of subsection (b), information regarding the proposed techniques for the development of alternate assessments, including a description of the technical adequacy of, technical aspects of, and scoring for, such assessments;

''(6) a plan for providing training for school instructional staff, families, students, and other appropriate parties on the use of alternate assessments; and

''(7) information on how the scores of students participating in alternate assessments will be reported to the public and to parents.

''(d) EVALUATION AND REPORTING REQUIREMENTS.—Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing the activities carried out under the grant and the result of such activities, including—

''(1) details on the effectiveness of the activities supported under this section in helping students with disabilities, or students who are limited English proficient, better participate in State assessment programs; and

''(2) information on the change in achievement, if any, of students with disabilities and students who are limited English proficient, as a result of a more accurate assessment of such students.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.''.

SEC. 303. REPORTS ON STUDENT ENROLLMENT AND GRADUATION RATES.

Part E of title I of the Elementary and Secondary Education Act of 1965 (as amended by section 302) (20 U.S.C. 6491 et seq.) is amended by adding at the end the following:

''SEC. 1506. REPORTS ON STUDENT ENROLLMENT AND GRADUATION RATES.

''(a) IN GENERAL.—The Secretary shall collect from each State educational agency, local educational agency, and school, on an annual basis, the following data:

''(1) The number of students enrolled in each of grades 7 through 12 at the beginning of the most recent school year.

''(2) The number of students enrolled in each of grades 7 through 12 at the end of the most recent school year.

''(3) The graduation rate for the most recent school year.

''(4) The data described in paragraphs (1) through (3), disaggregated by the groups of students described in section 1111(b)(2)(C)(v)(II).

''(b) ANNUAL REPORT.—The Secretary shall report the information collected under subsection (a) on an annual basis.''.

TITLE IV—CIVIL RIGHTS

SEC. 401. CIVIL RIGHTS.

Section 9534 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7914) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b) (as redesignated by paragraph (1)) the following:

''(a) PROHIBITION OF DISCRIMINATION.—Discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, or disability in any program funded under this Act is prohibited.''.

TITLE V—TECHNICAL ASSISTANCE

SEC. 501. TECHNICAL ASSISTANCE.

Part F of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7941) is amended—

(1) in the part heading, by inserting ''**AND TECHNICAL ASSISTANCE**'' after ''**EVALUATIONS**''; and

(2) by adding at the end the following:

''SEC. 9602. TECHNICAL ASSISTANCE.

''The Secretary shall ensure that the technical assistance provided by, and the research developed and disseminated through, the Institute of Education Sciences and other offices or agencies of the Department provide educators and parents with the needed information and support for identifying and using educational strategies, programs, and practices, including strategies, programs, and practices available through the clearinghouses supported under the Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) and other federally-supported clearinghouses, that have been successful in improving educational opportunities and achievement for all students.''.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1056. A bill to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located in the City, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to introduce the Southern Nevada Limited Transition Area Act, which will enhance the ability of a rapidly growing community to diversify its economy, gainfully employ its residents, and achieve fiscal sustainability.

In addition to creating a vital economic center in Henderson with this legislation, we hope at a future date to add another title to this bill that will allow Clark County to convey a small parcel of land to the Nevada National Guard for no consideration so that a new armory can be developed. Conversations are currently taking place at the State and county levels that may impact this conveyance, so we are awaiting more information.

The bill I am introducing today would convey approximately 547 acres of land from the Bureau of Land Management to the city of Henderson, NV, for development as an employment and business center.

The Bureau of Land Management has designated this parcel for disposal because of its urban surroundings and its isolation from other public land, which renders it difficult for the agency to manage.

The parcel is located in a rapidly growing area of the city, but is impacted by aircraft noise and overflights from the nearby Henderson Executive Airport, making it unsuitable for residential use.

Rather than shying away from this property because of the limitations on its use, the city of Henderson has put together a forward looking plan that will turn the area into a bustling business center. In addition to productively diversifying the land use pattern in the Las Vegas Valley, the proposed development of this land will encourage a broad range of employment opportunities for the region, while also helping to pay for public infrastructure in nearby residential areas.

The way that the land privatization would work is as follows. The bill would convey the land to the city by patent. The city would then subdivide and sell lots at fair market value. As in previous conveyances of Federal land designated in the Southern Nevada Public Lands Management Act for disposal, 85 percent of the proceeds from sales would return to the BLM's Special Account for a variety of conservation purposes in Nevada. Five percent of the proceeds would fund the State of Nevada's general education program. And the city of Henderson could use the remaining 10 percent to cover expenses associated with subdividing the property and providing infrastructure.

Henderson is a rapidly growing city. Its leaders are dedicated to making the city a national model of logical development, diversified employment, and fiscal sustainability. This bill helps establish the conditions needed to realize that vision.

This bill provides key assistance to southern Nevada by enabling the City of Henderson to move forward with an important economic development project. This is a simple, but an important effort that this body can make to further strengthen our Nation's economy. I look forward working with the Energy Committee and the Senate to pass this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Southern Nevada Limited Transition Area Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means the City of Henderson, Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) SPECIAL ACCOUNT.—The term ''Special Account'' means the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

(4) STATE.—The term ''State'' means the State of Nevada.

(5) TRANSITION AREA.—The term ''Transition Area'' means the approximately 547 acres of Federal land located in Henderson, Nevada, and identified as ''Limited Transition Area'' on the map entitled ''Southern Nevada Limited Transition Area Act'' and dated November 16, 2004.

SEC. 3. SOUTHERN NEVADA LIMITED TRANSITION AREA.

(a) CONVEYANCE.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), on request of the City, the Secretary shall, without consideration and subject to all valid existing rights, convey to the City all right, title, and interest of the United States in and to the Transition Area.

(b) USE OF LAND FOR NONRESIDENTIAL DEVELOPMENT.—

(1) IN GENERAL.—After the conveyance to the City under subsection (a), the City may sell any portion or portions of the Transition Area for purposes of nonresidential development.

(2) METHOD OF SALE.—The sale of land under paragraph (1) shall be—

(A) through a competitive bidding process; and

(B) for not less than fair market value.

(3) COMPLIANCE WITH CHARTER.—Except as provided in paragraphs (2) and (4), the City may sell parcels within the Transition Area only in accordance with the procedures for conveyances established in the City Charter.

(4) DISPOSITION OF PROCEEDS.—Of the gross proceeds from the sale of land under paragraph (1), the City shall—

(A) deposit 85 percent in the Special Account;

(B) retain 10 percent as compensation for the costs incurred by the City—

(i) in carrying out land sales under paragraph (1); and

(ii) for the provision of public infrastructure to serve the Transition Area, including planning, engineering, surveying, and subdividing the Transition Area for nonresidential development; and

(C) pay 5 percent to the State for use in the general education program of the State.

(c) USE OF LAND FOR RECREATION OR OTHER PUBLIC PURPOSES.—The City may elect to retain parcels in the Transition Area for public recreation or other public purposes consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.) by providing to the Secretary written notice of the election.

(d) NOISE COMPATIBILITY REQUIREMENTS.—The City shall—

(1) plan and manage the Transition Area in accordance with section 47504 of title 49, United States Code (relating to airport noise compatibility planning), and regulations promulgated in accordance with that section; and

(2) agree that if any land in the Transition Area is sold, leased, or otherwise conveyed by the City, the sale, lease, or conveyance shall contain a limitation to require uses compatible with that airport noise compatibility planning.

(e) REVERSION.—

(1) IN GENERAL.—If any parcel of land in the Transition Area is not conveyed for nonresidential development under this Act or reserved for recreation or other public purposes under subsection (c) within 20 years after the date of the enactment of this Act, the parcel of land shall, if determined to be appropriate by the Secretary, revert to the United States.

(2) INCONSISTENT USE.—If the City uses any parcel of land within the Transition Area in a manner that is inconsistent with the uses specified in this section—

(A) at the election of the Secretary, the parcel shall revert to the United States; or

(B) if the Secretary does not make an election under paragraph (1), the City shall sell the parcel of land in accordance with subsection (b)(2).

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1057. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President today I am pleased to introduce the Indian Health Care Improvement Act Amendments of 2005 to revise and extend the Act.

Six years ago a steering committee of Tribal leaders, with extensive consultation by the Indian Health Service, developed a broad consensus in Indian Country about what needs to be done to improve and update health services for Indian people. In the 108th Congress significant progress was made in crafting a bill that was acceptable to all parties but still did not pass the full Senate. In the legislation introduced today, I have tried to address concerns raised last year, but understand that there may still be some differences. I look forward to continuing discussions on these differences, but am introducing the bill to get the process moving because we want to get this legislation enacted.

Over the years, Indian health care delivery has greatly expanded and tribes are taking over more health care services on the local level. Nearly 30 years ago, Congress enacted the Indian Health Care Improvement Act to meet the fundamental trust obligation of the United States to ensure that comprehensive health care would be provided to American Indians and Alaska Natives. The health status of Indian people remains much worse than that of other Americans.

The Indian Health Care Improvement Act is the statutory framework for the Indian health system and covers just about every aspect of health care. It provides grants and scholarships to recruit Indians into health professions serving native communities and funds to expand the health care infrastructure. It lifted the prohibition against Medicare and Medicaid reimbursement for health services provided by the Indian Health Service or the Indian tribes, and established health services for Indians in urban areas.

Reauthorization of this Act is a high legislative priority. Critical improvements have been provided in this bill including provisions exploring options for long-term care, governing children and senior issues and the following: new sources of funding for recruitment and retention purposes; access to health care, especially for Indian children and low-income Indians; more flexibility in facility construction programs; consolidated behavioral health programs for more comprehensive care; and a Commission to study and recommend the best means of providing Indian health care.

I look forward to working with my colleagues on both sides of the aisle to ensure passage of this important legislation. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Health Care Improvement Act Amendments of 2005''.

SEC. 2. INDIAN HEALTH CARE IMPROVEMENT ACT AMENDED.

(a) IN GENERAL.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''Sec. 1. Short title; table of contents.
''Sec. 2. Findings.
''Sec. 3. Declaration of National Indian health policy.
''Sec. 4. Definitions.

''TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT

''Sec. 101. Purpose.
''Sec. 102. Health professions recruitment program for Indians.
''Sec. 103. Health professions preparatory scholarship program for Indians.
''Sec. 104. Indian health professions scholarships.
''Sec. 105. American Indians Into Psychology program.
''Sec. 106. Funding for tribes for scholarship programs.
''Sec. 107. Indian Health Service extern programs.
''Sec. 108. Continuing education allowances.
''Sec. 109. Community health representative program.
''Sec. 110. Indian Health Service loan repayment program.
''Sec. 111. Scholarship and Loan Repayment Recovery Fund.
''Sec. 112. Recruitment activities.
''Sec. 113. Indian recruitment and retention program.
''Sec. 114. Advanced training and research.
''Sec. 115. Quentin N. Burdick American Indians Into Nursing program.
''Sec. 116. Tribal cultural orientation.
''Sec. 117. Inmed program.
''Sec. 118. Health training programs of community colleges.
''Sec. 119. Retention bonus.
''Sec. 120. Nursing residency program.
''Sec. 121. Community health aide program for Alaska.
''Sec. 122. Tribal health program administration.
''Sec. 123. Health professional chronic shortage demonstration programs.
''Sec. 124. National Health Service Corps.
''Sec. 125. Substance abuse counselor educational curricula demonstration programs.

''Sec. 126. Behavioral health training and community education programs.
''Sec. 127. Authorization of appropriations.
''TITLE II—HEALTH SERVICES
''Sec. 201. Indian Health Care Improvement Fund.
''Sec. 202. Catastrophic Health Emergency Fund.
''Sec. 203. Health promotion and disease prevention services.
''Sec. 204. Diabetes prevention, treatment, and control.
''Sec. 205. Shared services for long-term care.
''Sec. 206. Health services research.
''Sec. 207. Mammography and other cancer screening.
''Sec. 208. Patient travel costs.
''Sec. 209. Epidemiology centers.
''Sec. 210. Comprehensive school health education programs.
''Sec. 211. Indian youth program.
''Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.
''Sec. 213. Authority for provision of other services.
''Sec. 214. Indian women's health care.
''Sec. 215. Environmental and nuclear health hazards.
''Sec. 216. Arizona as a contract health service delivery area.
''Sec. 216A. North Dakota and South Dakota as a contract health service delivery area.
''Sec. 217. California contract health services program.
''Sec. 218. California as a contract health service delivery area.
''Sec. 219. Contract health services for the Trenton service area.
''Sec. 220. Programs operated by Indian tribes and tribal organizations.
''Sec. 221. Licensing.
''Sec. 222. Notification of provision of emergency contract health services.
''Sec. 223. Prompt action on payment of claims.
''Sec. 224. Liability for payment.
''Sec. 225. Authorization of appropriations.
''TITLE III—FACILITIES
''Sec. 301. Consultation: construction and renovation of facilities; reports.
''Sec. 302. Sanitation facilities.
''Sec. 303. Preference to Indians and Indian firms.
''Sec. 304. Expenditure of nonservice funds for renovation.
''Sec. 305. Funding for the construction, expansion, and modernization of small ambulatory care facilities.
''Sec. 306. Indian health care delivery demonstration project.
''Sec. 307. Land transfer.
''Sec. 308. Leases, contracts, and other agreements.
''Sec. 309. Loans, loan guarantees, and loan repayment.
''Sec. 310. Tribal leasing.
''Sec. 311. Indian Health Service/tribal facilities joint venture program.
''Sec. 312. Location of facilities.
''Sec. 313. Maintenance and improvement of health care facilities.
''Sec. 314. Tribal management of Federally owned quarters.
''Sec. 315. Applicability of Buy American Act requirement.
''Sec. 316. Other funding for facilities.
''Sec. 317. Authorization of appropriations.
''TITLE IV—ACCESS TO HEALTH SERVICES
''Sec. 401. Treatment of payments under Social Security Act health care programs.
''Sec. 402. Grants to and contracts with the Service, Indian tribes, Tribal Organizations, and Urban Indian Organizations.
''Sec. 403. Reimbursement from certain third parties of costs of health services.
''Sec. 404. Crediting of reimbursements.
''Sec. 405. Purchasing health care coverage.
''Sec. 406. Sharing arrangements with Federal agencies.
''Sec. 407. Payor of last resort.
''Sec. 408. Nondiscrimination in qualifications for reimbursement for services.
''Sec. 409. Consultation.
''Sec. 410. State Children's Health Insurance Program (SCHIP).
''Sec. 411. Social Security Act sanctions.
''Sec. 412. Cost sharing.
''Sec. 413. Treatment under Medicaid managed care.
''Sec. 414. Navajo Nation Medicaid Agency feasibility study.
''Sec. 415. Authorization of appropriations.
''TITLE V—HEALTH SERVICES FOR URBAN INDIANS
''Sec. 501. Purpose.
''Sec. 502. Contracts with, and grants to, Urban Indian Organizations.
''Sec. 503. Contracts and grants for the provision of health care and referral services.
''Sec. 504. Contracts and grants for the determination of unmet health care needs.
''Sec. 505. Evaluations; renewals.
''Sec. 506. Other contract and grant requirements.
''Sec. 507. Reports and records.
''Sec. 508. Limitation on contract authority.
''Sec. 509. Facilities.
''Sec. 510. Office of Urban Indian Health.
''Sec. 511. Grants for alcohol and substance abuse-related services.
''Sec. 512. Treatment of certain demonstration projects.
''Sec. 513. Urban NIAAA transferred programs.
''Sec. 514. Consultation with Urban Indian Organizations.
''Sec. 515. Federal Tort Claim Act coverage.
''Sec. 516. Urban youth treatment center demonstration.
''Sec. 517. Use of Federal Government facilities and sources of supply.
''Sec. 518. Grants for diabetes prevention, treatment, and control.
''Sec. 519. Community health representatives.
''Sec. 520. Regulations.
''Sec. 521. Eligibility for services.
''Sec. 522. Authorization of appropriations.
''TITLE VI—ORGANIZATIONAL IMPROVEMENTS
''Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.
''Sec. 602. Automated management information system.
''Sec. 603. Authorization of appropriations.
''TITLE VII—BEHAVIORAL HEALTH PROGRAMS
''Sec. 701. Behavioral health prevention and treatment services.
''Sec. 702. Memoranda of agreement with the Department of the Interior.
''Sec. 703. Comprehensive behavioral health prevention and treatment program.
''Sec. 704. Mental health technician program.
''Sec. 705. Licensing requirement for mental health care workers.
''Sec. 706. Indian women treatment programs.
''Sec. 707. Indian youth program.
''Sec. 708. Inpatient and community-based mental health facilities design, construction, and staffing.
''Sec. 709. Training and community education.
''Sec. 710. Behavioral health program.
''Sec. 711. Fetal alcohol disorder funding.
''Sec. 712. Child sexual abuse and prevention treatment programs.
''Sec. 713. Behavioral health research.
''Sec. 714. Definitions.
''Sec. 715. Authorization of appropriations.
''TITLE VIII—MISCELLANEOUS
''Sec. 801. Reports.
''Sec. 802. Regulations.
''Sec. 803. Plan of implementation.
''Sec. 804. Availability of funds.
''Sec. 805. Limitation on use of funds appropriated to the Indian Health Service.
''Sec. 806. Eligibility of California Indians.
''Sec. 807. Health services for ineligible persons.
''Sec. 808. Reallocation of base resources.
''Sec. 809. Results of demonstration projects.
''Sec. 810. Provision of services in Montana.
''Sec. 811. Moratorium.
''Sec. 812. Tribal employment.
''Sec. 813. Severability provisions.
''Sec. 814. Establishment of National Bipartisan Commission on Indian Health Care.
''Sec. 815. Appropriations; availability.
''Sec. 816. Authorization of appropriations.

"SEC. 2. FINDINGS.

''Congress makes the following findings:

''(1) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

''(2) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

''(3) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

''(4) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States.

"SEC. 3. DECLARATION OF NATIONAL INDIAN HEALTH POLICY.

''Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians—

''(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

''(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010 or successor objectives;

''(3) to the greatest extent possible, to allow Indians to set their own health care priorities and establish goals that reflect their unmet needs;

''(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each Service Area is raised to at least the level of that of the general population;

''(5) to require meaningful consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations to implement this Act and the national policy of Indian self-determination; and

''(6) to provide funding for programs and facilities operated by Indian Tribes and Tribal Organizations in amounts that are not less than the amounts provided to programs and facilities operated directly by the Service.

''SEC. 4. DEFINITIONS.

''For purposes of this Act:

''(1) The term 'accredited and accessible' means on or near a reservation and accredited by a national or regional organization with accrediting authority.

''(2) The term 'Area Office' means an administrative entity, including a program office, within the Service through which services and funds are provided to the Service Units within a defined geographic area.

''(3) The term 'Assistant Secretary' means the Assistant Secretary of Indian Health.

''(4)(A) The term 'behavioral health' means the blending of substance (alcohol, drugs, inhalants, and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services.

''(B) The term 'behavioral health' includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

''(5) The term 'California Indians' means those Indians who are eligible for health services of the Service pursuant to section 806.

''(6) The term 'community college' means—

''(A) a tribal college or university, or

''(B) a junior or community college.

''(7) The term 'contract health service' means health services provided at the expense of the Service or a Tribal Health Program by public or private medical providers or hospitals, other than the Service Unit or the Tribal Health Program at whose expense the services are provided.

''(8) The term 'Department' means, unless otherwise designated, the Department of Health and Human Services.

''(9) The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications and reduction in the consequences of disease, including—

''(A) controlling—

''(i) development of diabetes;

''(ii) high blood pressure;

''(iii) infectious agents;

''(iv) injuries;

''(v) occupational hazards and disabilities;

''(vi) sexually transmittable diseases; and

''(vii) toxic agents; and

''(B) providing—

''(i) fluoridation of water; and

''(ii) immunizations.

''(10) The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, allied health professions, and any other health profession.

''(11) The term 'health promotion' means—

''(A) fostering social, economic, environmental, and personal factors conducive to health, including raising public awareness about health matters and enabling the people to cope with health problems by increasing their knowledge and providing them with valid information;

''(B) encouraging adequate and appropriate diet, exercise, and sleep;

''(C) promoting education and work in conformity with physical and mental capacity;

''(D) making available suitable housing, safe water, and sanitary facilities;

''(E) improving the physical, economic, cultural, psychological, and social environment;

''(F) promoting adequate opportunity for spiritual, religious, and Traditional Health Care Practices; and

''(G) providing adequate and appropriate programs, including—

''(i) abuse prevention (mental and physical);

''(ii) community health;

''(iii) community safety;

''(iv) consumer health education;

''(v) diet and nutrition;

''(vi) immunization and other prevention of communicable diseases, including HIV/AIDS;

''(vii) environmental health;

''(viii) exercise and physical fitness;

''(ix) avoidance of fetal alcohol disorders;

''(x) first aid and CPR education;

''(xi) human growth and development;

''(xii) injury prevention and personal safety;

''(xiii) behavioral health;

''(xiv) monitoring of disease indicators between health care provider visits, through appropriate means, including Internet-based health care management systems;

''(xv) personal health and wellness practices;

''(xvi) personal capacity building;

''(xvii) prenatal, pregnancy, and infant care;

''(xviii) psychological well-being;

''(xix) reproductive health and family planning;

''(xx) safe and adequate water;

''(xxi) safe housing, relating to elimination, reduction, and prevention of contaminants that create unhealthy housing conditions;

''(xxii) safe work environments;

''(xxiii) stress control;

''(xxiv) substance abuse;

''(xxv) sanitary facilities;

''(xxvi) sudden infant death syndrome prevention;

''(xxvii) tobacco use cessation and reduction;

''(xxviii) violence prevention; and

''(xxix) such other activities identified by the Service, a Tribal Health Program, or an Urban Indian Organization, to promote achievement of any of the objectives described in section 3(2).

''(12) The term 'Indian', unless otherwise designated, means any person who is a member of an Indian tribe or is eligible for health services under section 806, except that, for the purpose of sections 102 and 103, the term also means any individual who—

''(A)(i) irrespective of whether the individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside; or

''(ii) is a descendant, in the first or second degree, of any such member;

''(B) is an Eskimo or Aleut or other Alaska Native;

''(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(D) is determined be an Indian under regulations promulgated by the Secretary.

''(13) The term 'Indian Health Program' means—

''(A) any health program administered directly by the Service;

''(B) any Tribal Health Program; or

''(C) any Indian Tribe or Tribal Organization to which the Secretary provides funding pursuant to section 23 of the Act of April 30, 1908 (25 U.S.C. 47), commonly known as the 'Buy Indian Act'.

''(14) The term 'Indian Tribe' has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(15) The term 'junior or community college' has the meaning given the term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

''(16) The term 'reservation' means any federally recognized Indian Tribe's reservation, Pueblo, or colony, including former reservations in Oklahoma, Indian allotments, and Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act (25 U.S.C. 1601 et seq.).

''(17) The term 'Secretary', unless otherwise designated, means the Secretary of Health and Human Services.

''(18) The term 'Service' means the Indian Health Service.

''(19) The term 'Service Area' means the geographical area served by each Area Office.

''(20) The term 'Service Unit' means an administrative entity of the Service, or a Tribal Health Program through which services are provided, directly or by contract, to eligible Indians within a defined geographic area.

''(21) The term 'telehealth' has the meaning given the term in section 330K(a) of the Public Health Service Act (42 U.S.C. 254c–16(a)).

''(22) The term 'telemedicine' means a telecommunications link to an end user through the use of eligible equipment that electronically links health professionals or patients and health professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care services.

''(23) The term 'Traditional Health Care Practices' means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to Western healing sciences) which embody the influences or forces of innate Tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which call upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation, and maintenance of health, well-being, and life's harmony.

''(24) The term 'tribal college or university' has the meaning given the term in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

''(25) The term 'Tribal Health Program' means an Indian Tribe or Tribal Organization that operates any health program, service, function, activity, or facility funded, in whole or part, by the Service through, or provided for in, a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(26) The term 'Tribal Organization' has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(27) The term 'Urban Center' means any community which has a sufficient Urban Indian population with unmet health needs to warrant assistance under title V of this Act, as determined by the Secretary.

''(28) The term 'Urban Indian' means any individual who resides in an Urban Center and who meets 1 or more of the following criteria:

''(A) Irrespective of whether the individual lives on or near a reservation, the individual is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those tribes, bands, or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member.

''(B) The individual is an Eskimo, Aleut, or other Alaskan Native.

''(C) The individual is considered by the Secretary of the Interior to be an Indian for any purpose.

''(D) The individual is determined to be an Indian under regulations promulgated by the Secretary.

''(29) The term 'Urban Indian Organization' means a nonprofit corporate body that (A) is situated in an Urban Center; (B) is governed by an Urban Indian-controlled board of directors; (C) provides for the participation of all interested Indian groups and individuals; and (D) is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

''TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT

''SEC. 101. PURPOSE.

''The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Indian Health Programs and Urban Indian Organizations involved in the provision of health services to Indians.

''SEC. 102. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities, Tribal Health Programs, or Urban Indian Organizations to assist such entities in meeting the costs of—

''(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

''(A) to enroll in courses of study in such health professions; or

''(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

''(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

''(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

''(b) FUNDING.—

''(1) APPLICATION.—The Secretary shall not make a grant under this section unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe pursuant to this Act. The Secretary shall give a preference to applications submitted by Tribal Health Programs or Urban Indian Organizations.

''(2) AMOUNT OF FUNDS; PAYMENT.—The amount of a grant under this section shall be determined by the Secretary. Payments pursuant to this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations issued pursuant to this Act. To the extent not otherwise prohibited by law, funding commitments shall be for 3 years, as provided in regulations issued pursuant to this Act.

''SEC. 103. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

''(a) SCHOLARSHIPS AUTHORIZED.—The Secretary, acting through the Service, shall provide scholarship grants to Indians who—

''(1) have successfully completed their high school education or high school equivalency; and

''(2) have demonstrated the potential to successfully complete courses of study in the health professions.

''(b) PURPOSES.—Scholarships provided pursuant to this section shall be for the following purposes:

''(1) Compensatory preprofessional education of any recipient, such scholarship not to exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued under this Act).

''(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years. An extension of up to 2 years (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued pursuant to this Act) may be approved.

''(c) OTHER CONDITIONS.—Scholarships under this section—

''(1) may cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school;

''(2) shall not be denied solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; and

''(3) shall not be denied solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

''SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

''(a) IN GENERAL.—

''(1) AUTHORITY.—The Secretary, acting through the Service, shall make scholarship grants to Indians who are enrolled full or part time in accredited schools pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Services Act (42 U.S.C. 2541), except as provided in subsection (b) of this section.

''(2) ALLOCATION BY FORMULA.—Except as provided in paragraph (3), the funding authorized by this section shall be allocated by Service Area by a formula developed in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations. Such formula shall consider the human resource development needs in each Service Area.

''(3) CONTINUITY OF PRIOR SCHOLARSHIPS.—Paragraph (2) shall not apply with respect to individual recipients of scholarships provided under this section (as in effect 1 day prior to the date of enactment of the Indian Health Care Improvement Act Amendments of 2005) until such time as the individual completes the course of study that is supported through such scholarship.

''(4) CERTAIN DELEGATION NOT ALLOWED.—The administration of this section shall be a responsibility of the Assistant Secretary and shall not be delegated in a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(b) ACTIVE DUTY SERVICE OBLIGATION.—

''(1) OBLIGATION MET.—The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 2541) that an Indian has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year-for-year obligation, by service in one or more of the following:

''(A) In an Indian Health Program.

''(B) In a program assisted under title V of this Act.

''(C) In the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''(2) OBLIGATION DEFERRED.—At the request of any individual who has entered into a contract referred to in paragraph (1) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

''(A) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service under this subsection.

''(B) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

''(C) The active duty service obligation will be served in the health profession of that individual in a manner consistent with paragraph (1).

''(D) A recipient of a scholarship under this section may, at the election of the recipient, meet the active duty service obligation described in paragraph (1) by service in a program specified under that paragraph that—

''(i) is located on the reservation of the Indian Tribe in which the recipient is enrolled; or

''(ii) serves the Indian Tribe in which the recipient is enrolled.

''(3) PRIORITY WHEN MAKING ASSIGNMENTS.—Subject to paragraph (2), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in paragraph (1), shall give priority to assigning individuals to service in those programs specified in paragraph (1) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(c) PART-TIME STUDENTS.—In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

''(1) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Area Office;

''(2) the period of obligated service described in subsection (b)(1) shall be equal to the greater of—

''(A) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the Area Office); or

''(B) 2 years; and

''(3) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254*l*(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

''(d) BREACH OF CONTRACT.—

''(1) SPECIFIED BREACHES.—An individual shall be liable to the United States for the amount which has been paid to the individual, or on behalf of the individual, under a contract entered into with the Secretary

under this section on or after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 if that individual—

''(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(B) is dismissed from such educational institution for disciplinary reasons;

''(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

''(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

''(2) OTHER BREACHES.—If for any reason not specified in paragraph (1) an individual breaches a written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (*l*) of section 110 in the manner provided for in such subsection.

''(3) CANCELLATION UPON DEATH OF RECIPIENT.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(4) WAIVERS AND SUSPENSIONS.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary, in consultation with the affected Area Office, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, determines that—

''(A) it is not possible for the recipient to meet that obligation or make that payment;

''(B) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

''(C) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

''(5) EXTREME HARDSHIP.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

''(6) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

''SEC. 105. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

''(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants to at least 3 colleges and universities for the purpose of developing and maintaining Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various locations throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

''(b) QUENTIN N. BURDICK PROGRAM GRANT.—The Secretary shall provide a grant authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 117(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115(e), and existing university research and communications networks.

''(c) REGULATIONS.—The Secretary shall issue regulations pursuant to this Act for the competitive awarding of grants provided under this section.

''(d) CONDITIONS OF GRANT.—Applicants under this section shall agree to provide a program which, at a minimum—

''(1) provides outreach and recruitment for health professions to Indian communities including elementary, secondary, and accredited and accessible community colleges that will be served by the program;

''(2) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

''(3) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

''(4) provides stipends to undergraduate and graduate students to pursue a career in psychology;

''(5) develops affiliation agreements with tribal colleges and universities, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

''(6) to the maximum extent feasible, uses existing university tutoring, counseling, and student support services; and

''(7) to the maximum extent feasible, employs qualified Indians in the program.

''(e) ACTIVE DUTY SERVICE REQUIREMENT.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (d)(4) that is funded under this section. Such obligation shall be met by service—

''(1) in an Indian Health Program;

''(2) in a program assisted under title V of this Act; or

''(3) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''SEC. 106. FUNDING FOR TRIBES FOR SCHOLARSHIP PROGRAMS.

''(a) IN GENERAL.—

''(1) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants to Tribal Health Programs for the purpose of providing scholarships for Indians to serve as health professionals in Indian communities.

''(2) AMOUNT.—Amounts available under paragraph (1) for any fiscal year shall not exceed 5 percent of the amounts available for each fiscal year for Indian Health Scholarships under section 104.

''(3) APPLICATION.—An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as consistent with this section.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—A Tribal Health Program receiving a grant under subsection (a) shall provide scholarships to Indians in accordance with the requirements of this section.

''(2) COSTS.—With respect to costs of providing any scholarship pursuant to subsection (a)—

''(A) 80 percent of the costs of the scholarship shall be paid from the funds made available pursuant to subsection (a)(1) provided to the Tribal Health Program; and

''(B) 20 percent of such costs may be paid from any other source of funds.

''(c) COURSE OF STUDY.—A Tribal Health Program shall provide scholarships under this section only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions contemplated by this Act.

''(d) CONTRACT.—In providing scholarships under subsection (b), the Secretary and the Tribal Health Program shall enter into a written contract with each recipient of such scholarship. Such contract shall—

''(1) obligate such recipient to provide service in an Indian Health Program or Urban Indian Organization, in the same Service Area where the Tribal Health Program providing the scholarship is located, for—

''(A) a number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

''(B) such greater period of time as the recipient and the Tribal Health Program may agree;

''(2) provide that the amount of the scholarship—

''(A) may only be expended for—

''(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

''(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), with such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and not to exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

''(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

''(3) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

''(4) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to each health profession.

''(e) BREACH OF CONTRACT.—

''(1) SPECIFIC BREACHES.—An individual who has entered into a written contract with the Secretary and a Tribal Health Program under subsection (d) shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract if that individual—

''(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level as determined by the educational institution under regulations of the Secretary);

''(B) is dismissed from such educational institution for disciplinary reasons;

''(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

''(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

''(2) OTHER BREACHES.—If for any reason not specified in paragraph (1), an individual breaches a written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (*l*) of section 110 in the manner provided for in such subsection.

''(3) CANCELLATION UPON DEATH OF RECIPIENT.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(4) INFORMATION.—The Secretary may carry out this subsection on the basis of information received from Tribal Health Programs involved or on the basis of information collected through such other means as the Secretary deems appropriate.

''(f) RELATION TO SOCIAL SECURITY ACT.—The recipient of a scholarship under this section shall agree, in providing health care pursuant to the requirements herein—

''(1) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to a program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX or title XXI of such Act; and

''(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX, or the State child health plan under title XXI, of such Act to provide service to individuals entitled to medical assistance or child health assistance, respectively, under the plan.

''(g) CONTINUANCE OF FUNDING.—The Secretary shall make payments under this section to a Tribal Health Program for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Tribal Health Program has not complied with the requirements of this section.

''SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

''(a) EMPLOYMENT PREFERENCE.—Any individual who receives a scholarship pursuant to section 104 or 106 shall be given preference for employment in the Service, or may be employed by a Tribal Health Program or an Urban Indian Organization, or other agencies of the Department as available, during any nonacademic period of the year.

''(b) NOT COUNTED TOWARD ACTIVE DUTY SERVICE OBLIGATION.—Periods of employment pursuant to this subsection shall not be counted in determining fulfillment of the service obligation incurred as a condition of the scholarship.

''(c) TIMING; LENGTH OF EMPLOYMENT.—Any individual enrolled in a program, including a high school program, authorized under section 102(a) may be employed by the Service or by a Tribal Health Program or an Urban Indian Organization during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(d) NONAPPLICABILITY OF COMPETITIVE PERSONNEL SYSTEM.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

''SEC. 108. CONTINUING EDUCATION ALLOWANCES.

''In order to encourage health professionals, including community health representatives and emergency medical technicians, to join or continue in an Indian Health Program or an Urban Indian Organization and to provide their services in the rural and remote areas where a significant portion of Indians reside, the Secretary, acting through the Service, may provide allowances to health professionals employed in an Indian Health Program or an Urban Indian Organization to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

''SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall maintain a Community Health Representative Program under which Indian Health Programs—

''(1) provide for the training of Indians as community health representatives; and

''(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

''(b) DUTIES.—The Community Health Representative Program of the Service, shall—

''(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by the Program;

''(2) in order to provide such training, develop and maintain a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

''(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

''(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for continuing education;

''(4) maintain a system that provides close supervision of Community Health Representatives;

''(5) maintain a system under which the work of Community Health Representatives is reviewed and evaluated; and

''(6) promote Traditional Health Care Practices of the Indian Tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

''SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish and administer a program to be known as the Service Loan Repayment Program (hereinafter referred to as the 'Loan Repayment Program') in order to ensure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian Health Programs and Urban Indian Organizations.

''(b) ELIGIBLE INDIVIDUALS.—To be eligible to participate in the Loan Repayment Program, an individual must—

''(1)(A) be enrolled—

''(i) in a course of study or program in an accredited educational institution (as determined by the Secretary under section 338B(b)(1)(c)(i) of the Public Health Service Act (42 U.S.C. 254*l*–1(b)(1)(c)(i))) and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

''(ii) in an approved graduate training program in a health profession; or

''(B) have—

''(i) a degree in a health profession; and

''(ii) a license to practice a health profession;

''(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

''(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

''(C) meet the professional standards for civil service employment in the Service; or

''(D) be employed in an Indian Health Program or Urban Indian Organization without a service obligation; and

''(3) submit to the Secretary an application for a contract described in subsection (e).

''(c) APPLICATION.—

''(1) INFORMATION TO BE INCLUDED WITH FORMS.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (*l*) in the case of the individual's breach of contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Service to enable the individual to make a decision on an informed basis.

''(2) CLEAR LANGUAGE.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

''(3) TIMELY AVAILABILITY OF FORMS.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

''(d) PRIORITIES.—

''(1) LIST.—Consistent with subsection (k), the Secretary shall annually—

''(A) identify the positions in each Indian Health Program or Urban Indian Organization for which there is a need or a vacancy; and

''(B) rank those positions in order of priority.

''(2) APPROVALS.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

''(A) give first priority to applications made by individual Indians; and

''(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

''(i) individuals recruited through the efforts of an Indian Health Program or Urban Indian Organization; and

''(ii) other individuals based on the priority rankings under paragraph (1).

''(e) RECIPIENT CONTRACTS.—

''(1) CONTRACT REQUIRED.—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in paragraph (2).

''(2) CONTENTS OF CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

''(A) an agreement under which—

''(i) subject to subparagraph (C), the Secretary agrees—

''(I) to pay loans on behalf of the individual in accordance with the provisions of this section; and

''(II) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a Tribal Health Program or Urban Indian Organization as provided in clause (ii)(III); and

''(ii) subject to subparagraph (C), the individual agrees—

''(I) to accept loan payments on behalf of the individual;

''(II) in the case of an individual described in subsection (b)(1)—

''(aa) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

''(bb) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

''(III) to serve for a time period (hereinafter in this section referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian Health Program or Urban Indian Organization to which the individual may be assigned by the Secretary;

''(B) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under subparagraph (A)(ii)(III);

''(C) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

''(D) a statement of the damages to which the United States is entitled under subsection (*l*) for the individual's breach of the contract; and

''(E) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

''(f) DEADLINE FOR DECISION ON APPLICATION.—The Secretary shall provide written notice to an individual within 21 days on—

''(1) the Secretary's approving, under subsection (e)(1), of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

''(2) the Secretary's disapproving an individual's participation in such Program.

''(g) PAYMENTS.—

''(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

''(A) tuition expenses;

''(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

''(C) reasonable living expenses as determined by the Secretary.

''(2) AMOUNT.—For each year of obligated service that an individual contracts to serve under subsection (e), the Secretary may pay up to $35,000 or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act, whichever is more, on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

''(A) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

''(B) provides an incentive to serve in Indian Health Programs and Urban Indian Organizations with the greatest shortages of health professionals; and

''(C) provides an incentive with respect to the health professional involved remaining in an Indian Health Program or Urban Indian Organization with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

''(3) TIMING.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

''(4) REIMBURSEMENTS FOR TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from a payment under paragraph (2) on behalf of an individual, the Secretary—

''(A) in addition to such payments, may make payments to the individual in an amount equal to not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

''(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

''(5) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

''(h) EMPLOYMENT CEILING.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section shall not be counted against any employment ceiling affecting the Department while those individuals are undergoing academic training.

''(i) RECRUITMENT.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other Service manpower programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

''(j) APPLICABILITY OF LAW.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

''(k) ASSIGNMENT OF INDIVIDUALS.—The Secretary, in assigning individuals to serve in Indian Health Programs or Urban Indian Organizations pursuant to contracts entered into under this section, shall—

''(1) ensure that the staffing needs of Tribal Health Programs and Urban Indian Organizations receive consideration on an equal basis with programs that are administered directly by the Service; and

''(2) give priority to assigning individuals to Indian Health Programs and Urban Indian Organizations that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(*l*) BREACH OF CONTRACT.—

''(1) SPECIFIC BREACHES.—An individual who has entered into a written contract with the Secretary under this section and has not received a waiver under subsection (m) shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract if that individual—

''(A) is enrolled in the final year of a course of study and—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) voluntarily terminates such enrollment; or

''(iii) is dismissed from such educational institution before completion of such course of study; or

''(B) is enrolled in a graduate training program and fails to complete such training program.

''(2) OTHER BREACHES; FORMULA FOR AMOUNT OWED.—If, for any reason not specified in paragraph (1), an individual breaches his or her written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (e)(2), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula: $A=3Z(t-s/t)$ in which—

''(A) 'A' is the amount the United States is entitled to recover;

''(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury;

''(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

''(D) 's' is the number of months of such period served by such individual in accordance with this section.

''(3) DEDUCTIONS IN MEDICARE PAYMENTS.—Amounts not paid within such period shall be subject to collection through deductions in medicare payments pursuant to section 1892 of the Social Security Act.

''(4) TIME PERIOD FOR REPAYMENT.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the

breach or such longer period beginning on such date as shall be specified by the Secretary.

''(5) RECOVERY OF DELINQUENCY.—

''(A) IN GENERAL.—If damages described in paragraph (4) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

''(i) use collection agencies contracted with by the Administrator of General Services; or

''(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

''(B) REPORT.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

''(m) WAIVER OR SUSPENSION OF OBLIGATION.—

''(1) IN GENERAL.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

''(2) CANCELED UPON DEATH.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

''(3) HARDSHIP WAIVER.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

''(4) BANKRUPTCY.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

''(n) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to Congress under section 801, a report concerning the previous fiscal year which sets forth by Service Area the following:

''(1) A list of the health professional positions maintained by Indian Health Programs and Urban Indian Organizations for which recruitment or retention is difficult.

''(2) The number of Loan Repayment Program applications filed with respect to each type of health profession.

''(3) The number of contracts described in subsection (e) that are entered into with respect to each health profession.

''(4) The amount of loan payments made under this section, in total and by health profession.

''(5) The number of scholarships that are provided under sections 104 and 106 with respect to each health profession.

''(6) The amount of scholarship grants provided under section 104 and 106, in total and by health profession.

''(7) The number of providers of health care that will be needed by Indian Health Programs and Urban Indian Organizations, by location and profession, during the 3 fiscal years beginning after the date the report is filed.

''(8) The measures the Secretary plans to take to fill the health professional positions maintained by Indian Health Programs or Urban Indian Organizations for which recruitment or retention is difficult.

''SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'LRRF'). The LRRF shall consist of such amounts as may be collected from individuals under section 104(d), section 106(e), and section 110(*l*) for breach of contract, such funds as may be appropriated to the LRRF, and interest earned on amounts in the LRRF. All amounts collected, appropriated, or earned relative to the LRRF shall remain available until expended.

''(b) USE OF FUNDS.—

''(1) BY SECRETARY.—Amounts in the LRRF may be expended by the Secretary, acting through the Service, to make payments to an Indian Health Program—

''(A) to which a scholarship recipient under section 104 and 106 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to such sections; and

''(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104, 106, or section 110.

''(2) BY TRIBAL HEALTH PROGRAMS.—A Tribal Health Program receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or recruit and employ, directly or by contract, health professionals to provide health care services.

''(c) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary of Health and Human Services determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(d) SALE OF OBLIGATIONS.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

''SEC. 112. RECRUITMENT ACTIVITIES.

''(a) REIMBURSEMENT FOR TRAVEL.—The Secretary, acting through the Service, may reimburse health professionals seeking positions with Indian Health Programs or Urban Indian Organizations, including individuals considering entering into a contract under section 110 and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

''(b) RECRUITMENT PERSONNEL.—The Secretary, acting through the Service, shall assign one individual in each Area Office to be responsible on a full-time basis for recruitment activities.

''SEC. 113. INDIAN RECRUITMENT AND RETENTION PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall fund, on a competitive basis, innovative demonstration projects for a period not to exceed 3 years to enable Tribal Health Programs and Urban Indian Organizations to recruit, place, and retain health professionals to meet their staffing needs.

''(b) ELIGIBLE ENTITIES; APPLICATION.—Any Tribal Health Program or Urban Indian Organization may submit an application for funding of a project pursuant to this section.

''SEC. 114. ADVANCED TRAINING AND RESEARCH.

''(a) DEMONSTRATION PROGRAM.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian Health Program or Urban Indian Organization for a substantial period of time to pursue advanced training or research areas of study for which the Secretary determines a need exists.

''(b) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian Health Program or Urban Indian Organization for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the program after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (*l*) of section 110 in the manner provided for in such subsection.

''(c) EQUAL OPPORTUNITY FOR PARTICIPATION.—Health professionals from Tribal Health Programs and Urban Indian Organizations shall be given an equal opportunity to participate in the program under subsection (a).

''SEC. 115. QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

''(a) GRANTS AUTHORIZED.—For the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians, the Secretary, acting through the Service, shall provide grants to the following:

''(1) Public or private schools of nursing.

''(2) Tribal colleges or universities.

''(3) Nurse midwife programs and advanced practice nurse programs that are provided by any tribal college or university accredited nursing program, or in the absence of such, any other public or private institutions.

''(b) USE OF GRANTS.—Grants provided under subsection (a) may be used for one or more of the following:

''(1) To recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses.

''(2) To provide scholarships to Indians enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses.

''(3) To provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians.

''(4) To provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses.

''(5) To provide any program that is designed to achieve the purpose described in subsection (a).

''(c) APPLICATIONS.—Each application for funding under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

''(d) PREFERENCES FOR GRANT RECIPIENTS.—In providing grants under subsection (a), the Secretary shall extend a preference to the following:

''(1) Programs that provide a preference to Indians.

''(2) Programs that train nurse midwives or advanced practice nurses.

''(3) Programs that are interdisciplinary.

''(4) Programs that are conducted in cooperation with a program for gifted and talented Indian students.

''(e) QUENTIN N. BURDICK PROGRAM GRANT.—The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 117(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b).

''(f) ACTIVE DUTY SERVICE OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service—

''(1) in the Service;

''(2) in a program of an Indian Tribe or Tribal Organization conducted under the Indian Self-Determination and Education Assistance Act (including programs under agreements with the Bureau of Indian Affairs);

''(3) in a program assisted under title V of this Act; or

''(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health shortage area and addresses the health care needs of a substantial number of Indians.

''SEC. 116. TRIBAL CULTURAL ORIENTATION.

''(a) CULTURAL EDUCATION OF EMPLOYEES.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian Tribes in each Service Area receive educational instruction in the history and culture of such Indian Tribes and their relationship to the Service.

''(b) PROGRAM.—In carrying out subsection (a), the Secretary shall establish a program which shall, to the extent feasible—

''(1) be developed in consultation with the affected Indian Tribes, Tribal Organizations, and Urban Indian Organizations;

''(2) be carried out through tribal colleges or universities;

''(3) include instruction in American Indian studies; and

''(4) describe the use and place of Traditional Health Care Practices of the Indian Tribes in the Service Area.

''SEC. 117. INMED PROGRAM.

''(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, is authorized to provide grants to colleges and universities for the purpose of maintaining and expanding the Indian health careers recruitment program known as the 'Indians Into Medicine Program' (hereinafter in this section referred to as 'INMED') as a means of encouraging Indians to enter the health professions.

''(b) QUENTIN N. BURDICK GRANT.—The Secretary shall provide one of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the 'Quentin N. Burdick Indian Health Programs', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

''(c) REGULATIONS.—The Secretary, pursuant to this Act, shall develop regulations to govern grants pursuant to this section.

''(d) REQUIREMENTS.—Applicants for grants provided under this section shall agree to provide a program which—

''(1) provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on reservations which will be served by the program;

''(2) incorporates a program advisory board comprised of representatives from the Indian Tribes and Indian communities which will be served by the program;

''(3) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

''(4) provides tutoring, counseling, and support to students who are enrolled in a health career program of study at the respective college or university; and

''(5) to the maximum extent feasible, employs qualified Indians in the program.

''SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

''(a) GRANTS TO ESTABLISH PROGRAMS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such community colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on or near a reservation or in an Indian Health Program.

''(2) AMOUNT OF GRANTS.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

''(b) GRANTS FOR MAINTENANCE AND RECRUITING.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

''(2) REQUIREMENTS.—Grants may only be made under this section to a community college which—

''(A) is accredited;

''(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

''(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

''(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals; and

''(ii) stipulate certifications necessary to approve internship and field placement opportunities at Indian Health Programs;

''(D) has a qualified staff which has the appropriate certifications;

''(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

''(F) agrees to provide for Indian preference for applicants for programs under this section.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

''(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs; and

''(2) providing technical assistance and support to such colleges.

''(d) ADVANCED TRAINING.—

''(1) REQUIRED.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

''(A) has already received a degree or diploma in such health profession; and

''(B) provides clinical services on or near a reservation or for an Indian Health Program.

''(2) MAY BE OFFERED AT ALTERNATE SITE.—Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

''(e) FUNDING PRIORITY.—Where the requirements of subsection (b) are met, funding priority shall be provided to tribal colleges and universities in Service Areas where they exist.

''SEC. 119. RETENTION BONUS.

''(a) BONUS AUTHORIZED.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, an Indian Health Program or Urban Indian Organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

''(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

''(2) the Secretary determines is needed by Indian Health Programs and Urban Indian Organizations;

''(3) has—

''(A) completed 3 years of employment with an Indian Health Program or Urban Indian Organization; or

''(B) completed any service obligations incurred as a requirement of—

''(i) any Federal scholarship program; or

''(ii) any Federal education loan repayment program; and

''(4) enters into an agreement with an Indian Health Program or Urban Indian Organization for continued employment for a period of not less than 1 year.

''(b) RATES.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

''(c) DEFAULT OF RETENTION AGREEMENT.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(*l*)(2)(B).

''(d) OTHER RETENTION BONUS.—The Secretary may pay a retention bonus to any health professional employed by a Tribal Health Program if such health professional is serving in a position which the Secretary determines is—

''(1) a position for which recruitment or retention is difficult; and

''(2) necessary for providing health care services to Indians.

''SEC. 120. NURSING RESIDENCY PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Service, shall

establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian Health Program or Urban Indian Organization, and have done so for a period of not less than 1 year, to pursue advanced training. Such program shall include a combination of education and work study in an Indian Health Program or Urban Indian Organization leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse), a bachelor's degree (in the case of a registered nurse), or advanced degrees or certifications in nursing and public health.

''(b) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian Health Program or Urban Indian Organization for a period of obligated service equal to the amount of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (*l*) of section 110 in the manner provided for in such subsection.

''SEC. 121. COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

''(a) GENERAL PURPOSES OF PROGRAM.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall develop and operate a Community Health Aide Program in Alaska under which the Service—

''(1) provides for the training of Alaska Natives as health aides or community health practitioners;

''(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

''(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

''(b) SPECIFIC PROGRAM REQUIREMENTS.—The Secretary, acting through the Community Health Aide Program of the Service, shall—

''(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

''(2) in order to provide such training, develop a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

''(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

''(C) promotes the achievement of the health status objectives specified in section 3(2);

''(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

''(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

''(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

''(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

''(c) NATIONAL COMMUNITY HEALTH AIDE PROGRAM.—

''(1) IN GENERAL.—The Secretary, acting through the Service, is authorized to establish a national Community Health Aide Program in accordance with subsection (a), except as provided in paragraphs (2) and (3), without reducing funds for the Community Health Aide Program for Alaska.

''(2) LIMITED CERTIFICATION.—Except for any dental health aide in the State of Alaska, the Secretary, acting through the Community Health Aide Program of the Service, shall ensure that, for a period of 4 years, dental health aides are certified only to provide services relating to—

''(A) early childhood dental disease prevention and reversible dental procedures; and

''(B) the development of local capacity to provide those dental services.

''(3) REVIEW.—

''(A) IN GENERAL.—During the 4-year period described in paragraph (2), the Secretary, acting through the Community Health Aide Program of the Service, shall conduct a review of the dental health aide program in the State of Alaska to determine the ability of the program to address the dental care needs of Native Alaskans, the quality of care provided (including any training, improvement, or additional oversight needed), and whether the program is appropriate and necessary to carry out in any other Indian community.

''(B) REPORT.—After conducting the review under subparagraph (A), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a report describing any finding of the Secretary under the review.

''(C) FUTURE AUTHORIZATION OF CERTIFICATIONS.—Before authorizing any dental procedure not described in paragraph (2)(A), the Secretary shall consult with Indian tribes, Tribal Organizations, Urban Indian Organizations, and other interested parties to ensure that the safety and quality of care of the Community Health Aide Program are adequate and appropriate.

''SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

''The Secretary, acting through the Service, shall, by contract or otherwise, provide training for Indians in the administration and planning of Tribal Health Programs.

''SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROGRAMS.

''(a) DEMONSTRATION PROGRAMS AUTHORIZED.—The Secretary, acting through the Service, may fund demonstration programs for Tribal Health Programs to address the chronic shortages of health professionals.

''(b) PURPOSES OF PROGRAMS.—The purposes of demonstration programs funded under subsection (a) shall be—

''(1) to provide direct clinical and practical experience at a Service Unit to health profession students and residents from medical schools;

''(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

''(3) to provide academic and scholarly opportunities for health professionals serving Indians by identifying all academic and scholarly resources of the region.

''(c) ADVISORY BOARD.—The demonstration programs established pursuant to subsection (a) shall incorporate a program advisory board composed of representatives from the Indian Tribes and Indian communities in the area which will be served by the program.

''SEC. 124. NATIONAL HEALTH SERVICE CORPS.

''(a) NO REDUCTION IN SERVICES.—The Secretary shall not—

''(1) remove a member of the National Health Service Corps from an Indian Health Program or Urban Indian Organization; or

''(2) withdraw funding used to support such member, unless the Secretary, acting through the Service, Indian Tribes, or Tribal Organizations, has ensured that the Indians receiving services from such member will experience no reduction in services.

''(b) EXEMPTION FROM LIMITATIONS.—National Health Service Corps scholars qualifying for the Commissioned Corps in the United States Public Health Service shall be exempt from the full-time equivalent limitations of the National Health Service Corps and the Service when serving as a commissioned corps officer in a Tribal Health Program or an Urban Indian Organization.

''SEC. 125. SUBSTANCE ABUSE COUNSELOR EDUCATIONAL CURRICULA DEMONSTRATION PROGRAMS.

''(a) GRANTS AND CONTRACTS.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribal colleges and universities and eligible accredited and accessible community colleges to establish demonstration programs to develop educational curricula for substance abuse counseling.

''(b) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curriculum for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

''(c) TIME PERIOD OF ASSISTANCE; RENEWAL.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such contract or grant may be renewed for an additional 1-year period upon the approval of the Secretary.

''(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—Not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, after consultation with Indian Tribes and administrators of tribal colleges and universities and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration programs established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

''(e) ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

''(f) REPORT.—Each fiscal year, the Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for that fiscal year, a report on the findings and conclusions derived from the demonstration programs conducted under this section during that fiscal year.

''(g) DEFINITION.—For the purposes of this section, the term 'educational curriculum' means 1 or more of the following:

''(1) Classroom education.

''(2) Clinical work experience.

''(3) Continuing education workshops.

''SEC. 126. BEHAVIORAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.

''(a) STUDY; LIST.—The Secretary, acting through the Service, and the Secretary of the Interior, in consultation with Indian Tribes and Tribal Organizations, shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness, or dysfunctional and self destructive behavior.

''(b) POSITIONS.—The positions referred to in subsection (a) are—

''(1) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

''(A) elementary and secondary education;

''(B) social services and family and child welfare;

''(C) law enforcement and judicial services; and

''(D) alcohol and substance abuse;

''(2) staff positions within the Service; and

''(3) staff positions similar to those identified in paragraphs (1) and (2) established and maintained by Indian Tribes, Tribal Organizations (without regard to the funding source), and Urban Indian Organizations.

''(c) TRAINING CRITERIA.—

''(1) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position identified in subsection (b)(1) and (b)(2) and ensure that appropriate training has been, or shall be provided to any individual in any such position. With respect to any such individual in a position identified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training to, or provide funds to, an Indian Tribe, Tribal Organization, or Urban Indian Organization for training of appropriate individuals. In the case of positions funded under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the appropriate Secretary shall ensure that such training costs are included in the contract or compact, as the Secretary determines necessary.

''(2) POSITION SPECIFIC TRAINING CRITERIA.—Position specific training criteria shall be culturally relevant to Indians and Indian Tribes and shall ensure that appropriate information regarding Traditional Health Care Practices is provided.

''(d) COMMUNITY EDUCATION ON MENTAL ILLNESS.—The Service shall develop and implement, on request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, or assist the Indian Tribe, Tribal Organization, or Urban Indian Organization to develop and implement, a program of community education on mental illness. In carrying out this subsection, the Service shall, upon request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance to the Indian Tribe, Tribal Organization, or Urban Indian Organization to obtain and develop community educational materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

''(e) PLAN.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary shall develop a plan under which the Service will increase the health care staff providing behavioral health services by at least 500 positions within 5 years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. The plan developed under this subsection shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act').

''SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE II—HEALTH SERVICES

''SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

''(a) USE OF FUNDS.—The Secretary, acting through the Service, is authorized to expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), which are appropriated under the authority of this section, for the purposes of—

''(1) eliminating the deficiencies in health status and health resources of all Indian Tribes;

''(2) eliminating backlogs in the provision of health care services to Indians;

''(3) meeting the health needs of Indians in an efficient and equitable manner, including the use of telehealth and telemedicine when appropriate;

''(4) eliminating inequities in funding for both direct care and contract health service programs; and

''(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian Tribes with the highest levels of health status deficiencies and resource deficiencies:

''(A) Clinical care, including inpatient care, outpatient care (including audiology, clinical eye, and vision care), primary care, secondary and tertiary care, and long-term care.

''(B) Preventive health, including mammography and other cancer screening in accordance with section 207.

''(C) Dental care.

''(D) Mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners.

''(E) Emergency medical services.

''(F) Treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians.

''(G) Accident prevention programs.

''(H) Home health care.

''(I) Community health representatives.

''(J) Maintenance and repair.

''(K) Traditional Health Care Practices.

''(b) NO OFFSET OR LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act or the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other provision of law.

''(c) ALLOCATION; USE.—

''(1) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to Service Units, Indian Tribes, or Tribal Organizations. The funds allocated to each Indian Tribe, Tribal Organization, or Service Unit under this paragraph shall be used by the Indian Tribe, Tribal Organization, or Service Unit under this paragraph to improve the health status and reduce the resource deficiency of each Indian Tribe served by such Service Unit, Indian Tribe, or Tribal Organization.

''(2) APPORTIONMENT OF ALLOCATED FUNDS.—The apportionment of funds allocated to a Service Unit, Indian Tribe, or Tribal Organization under paragraph (1) among the health service responsibilities described in subsection (a)(5) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian Tribes and Tribal Organizations.

''(d) PROVISIONS RELATING TO HEALTH STATUS AND RESOURCE DEFICIENCIES.—For the purposes of this section, the following definitions apply:

''(1) DEFINITION.—The term 'health status and resource deficiency' means the extent to which—

''(A) the health status objectives set forth in section 3(2) are not being achieved; and

''(B) the Indian Tribe or Tribal Organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

''(2) AVAILABLE RESOURCES.—The health resources available to an Indian Tribe or Tribal Organization include health resources provided by the Service as well as health resources used by the Indian Tribe or Tribal Organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

''(3) PROCESS FOR REVIEW OF DETERMINATIONS.—The Secretary shall establish procedures which allow any Indian Tribe or Tribal Organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such Indian Tribe or Tribal Organization.

''(e) ELIGIBILITY FOR FUNDS.—Tribal Health Programs shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

''(f) REPORT.—By no later than the date that is 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary shall submit to Congress the current health status and resource deficiency report of the Service for each Service Unit, including newly recognized or acknowledged Indian Tribes. Such report shall set out—

''(1) the methodology then in use by the Service for determining Tribal health status and resource deficiencies, as well as the most recent application of that methodology;

''(2) the extent of the health status and resource deficiency of each Indian Tribe served by the Service or a Tribal Health Program;

''(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian Tribes served by the Service or a Tribal Health Program; and

''(4) an estimate of—

''(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service for the preceding fiscal year which is allocated to each Service Unit, Indian Tribe, or Tribal Organization;

''(B) the number of Indians eligible for health services in each Service Unit or Indian Tribe or Tribal Organization; and

''(C) the number of Indians using the Service resources made available to each Service Unit, Indian Tribe or Tribal Organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

''(g) INCLUSION IN BASE BUDGET.—Funds appropriated under this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

''(h) CLARIFICATION.—Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs,

nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve equity among Indian Tribes and Tribal Organizations.

''(i) FUNDING DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

"SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

''(a) ESTABLISHMENT.—There is established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'CHEF') consisting of—

''(1) the amounts deposited under subsection (f); and

''(2) the amounts appropriated to CHEF under this section.

''(b) ADMINISTRATION.—CHEF shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

''(c) CONDITIONS ON USE OF FUND.—No part of CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), nor shall CHEF funds be allocated, apportioned, or delegated on an Area Office, Service Unit, or other similar basis.

''(d) REGULATIONS.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section to—

''(1) establish a definition of disasters and catastrophic illnesses for which the cost of the treatment provided under contract would qualify for payment from CHEF;

''(2) provide that a Service Unit shall not be eligible for reimbursement for the cost of treatment from CHEF until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

''(A) the 2000 level of $19,000; and

''(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

''(3) establish a procedure for the reimbursement of the portion of the costs that exceeds such threshold cost incurred by—

''(A) Service Units; or

''(B) whenever otherwise authorized by the Service, non-Service facilities or providers;

''(4) establish a procedure for payment from CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

''(5) establish a procedure that will ensure that no payment shall be made from CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

''(e) NO OFFSET OR LIMITATION.—Amounts appropriated to CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other law.

''(f) DEPOSIT OF REIMBURSEMENT FUNDS.—There shall be deposited into CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from CHEF.

"SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

''(a) FINDINGS.—Congress finds that health promotion and disease prevention activities—

''(1) improve the health and well-being of Indians; and

''(2) reduce the expenses for health care of Indians.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service and Tribal Health Programs, shall provide health promotion and disease prevention services to Indians to achieve the health status objectives set forth in section 3(2).

''(c) EVALUATION.—The Secretary, after obtaining input from the affected Tribal Health Programs, shall submit to the President for inclusion in each report which is required to be submitted to Congress under section 801 an evaluation of—

''(1) the health promotion and disease prevention needs of Indians;

''(2) the health promotion and disease prevention activities which would best meet such needs;

''(3) the internal capacity of the Service and Tribal Health Programs to meet such needs; and

''(4) the resources which would be required to enable the Service and Tribal Health Programs to undertake the health promotion and disease prevention activities necessary to meet such needs.

"SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

''(a) DETERMINATIONS REGARDING DIABETES.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, shall determine—

''(1) by Indian Tribe and by Service Unit, the incidence of, and the types of complications resulting from, diabetes among Indians; and

''(2) based on the determinations made pursuant to paragraph (1), the measures (including patient education and effective ongoing monitoring of disease indicators) each Service Unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among Indian Tribes within that Service Unit.

''(b) DIABETES SCREENING.—To the extent medically indicated and with informed consent, the Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic and, in consultation with Indian Tribes, Urban Indian Organizations, and appropriate health care providers, establish a cost-effective approach to ensure ongoing monitoring of disease indicators. Such screening and monitoring may be conducted by a Tribal Health Program and may be conducted through appropriate Internet-based health care management programs.

''(c) FUNDING FOR DIABETES.—The Secretary shall continue to maintain each model diabetes project in existence on the date of enactment of the Indian Health Amendments Care Improvement Act of 2005, any such other diabetes programs operated by the Service or Tribal Health Programs, and any additional diabetes projects, such as the Medical Vanguard program provided for in title IV of Public Law 108–87, as implemented to serve Indian Tribes. Tribal Health Programs shall receive recurring funding for the diabetes projects that they operate pursuant to this section, both at the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 and for projects which are added and funded thereafter.

''(d) FUNDING FOR DIALYSIS PROGRAMS.—The Secretary is authorized to provide funding through the Service, Indian Tribes, and Tribal Organizations to establish dialysis programs, including funding to purchase dialysis equipment and provide necessary staffing.

''(e) OTHER DUTIES OF THE SECRETARY.—The Secretary shall, to the extent funding is available—

''(1) in each Area Office, consult with Indian Tribes and Tribal Organizations regarding programs for the prevention, treatment, and control of diabetes;

''(2) establish in each Area Office a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and

''(3) ensure that data collected in each Area Office regarding diabetes and related complications among Indians are disseminated to all other Area Offices, subject to applicable patient privacy laws.

"SEC. 205. SHARED SERVICES FOR LONG-TERM CARE.

''(a) LONG-TERM CARE.—Notwithstanding any other provision of law, the Secretary, acting through the Service, is authorized to provide directly, or enter into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations for, the delivery of long-term care and similar services to Indians. Such agreements shall provide for the sharing of staff or other services between the Service or a Tribal Health Program and a long-term care or other similar facility owned and operated (directly or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) by such Indian Tribe or Tribal Organization.

''(b) CONTENTS OF AGREEMENTS.—An agreement entered into pursuant to subsection (a)—

''(1) may, at the request of the Indian Tribe or Tribal Organization, delegate to such Indian Tribe or Tribal Organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

''(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the Tribal Health Program be allocated proportionately between the Service and the Indian Tribe or Tribal Organization; and

''(3) may authorize such Indian Tribe or Tribal Organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

''(c) MINIMUM REQUIREMENT.—Any nursing facility provided for under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

''(d) OTHER ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(e) USE OF EXISTING OR UNDERUSED FACILITIES.—The Secretary shall encourage the use of existing facilities that are underused or allow the use of swing beds for long-term or similar care.

"SEC. 206. HEALTH SERVICES RESEARCH.

''The Secretary, acting through the Service, shall make funding available for research to further the performance of the health service responsibilities of Indian Health Programs. The Secretary shall also, to the maximum extent practicable, coordinate departmental research resources and

activities to address relevant Indian Health Program research needs. Tribal Health Programs shall be given an equal opportunity to compete for, and receive, research funds under this section. This funding may be used for both clinical and nonclinical research.

"SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

''The Secretary, acting through the Service or Tribal Health Programs, shall provide for screening as follows:

''(1) Screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under accepted and appropriate national standards, and under such terms and conditions as are consistent with standards established by the Secretary to ensure the safety and accuracy of screening mammography under part B of title XVIII of such Act.

''(2) Other cancer screening meeting accepted and appropriate national standards.

"SEC. 208. PATIENT TRAVEL COSTS.

''The Secretary, acting through the Service and Tribal Health Programs, is authorized to provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) under this Act—

''(1) emergency air transportation and nonemergency air transportation where ground transportation is infeasible;

''(2) transportation by private vehicle (where no other means of transportation is available), specially equipped vehicle, and ambulance; and

''(3) transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

"SEC. 209. EPIDEMIOLOGY CENTERS.

''(a) ADDITIONAL CENTERS.—In addition to those epidemiology centers already established as of the date of enactment of this Act, and without reducing the funding levels for such centers, not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, shall establish and fund an epidemiology center in each Service Area which does not yet have one to carry out the functions described in subsection (b). Any new centers so established may be operated by Tribal Health Programs, but such funding shall not be divisible.

''(b) FUNCTIONS OF CENTERS.—In consultation with and upon the request of Indian Tribes, Tribal Organizations, and Urban Indian Organizations, each Service Area epidemiology center established under this subsection shall, with respect to such Service Area—

''(1) collect data relating to, and monitor progress made toward meeting, each of the health status objectives of the Service, the Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the Service Area;

''(2) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

''(3) assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

''(4) make recommendations for the targeting of services needed by the populations served;

''(5) make recommendations to improve health care delivery systems for Indians and Urban Indians;

''(6) provide requested technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

''(7) provide disease surveillance and assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations to promote public health.

''(c) TECHNICAL ASSISTANCE.—The Director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this subsection.

''(d) FUNDING FOR STUDIES.—The Secretary may make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to conduct epidemiological studies of Indian communities.

"SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

''(a) FUNDING FOR DEVELOPMENT OF PROGRAMS.—In addition to carrying out any other program for health promotion or disease prevention, the Secretary, acting through the Service, is authorized to award grants to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to develop comprehensive school health education programs for children from pre-school through grade 12 in schools for the benefit of Indian and Urban Indian children.

''(b) USE OF FUNDS.—Funding provided under this section may be used for purposes which may include, but are not limited to, the following:

''(1) Developing and implementing health education curricula both for regular school programs and afterschool programs.

''(2) Training teachers in comprehensive school health education curricula.

''(3) Integrating school-based, community-based, and other public and private health promotion efforts.

''(4) Encouraging healthy, tobacco-free school environments.

''(5) Coordinating school-based health programs with existing services and programs available in the community.

''(6) Developing school programs on nutrition education, personal health, oral health, and fitness.

''(7) Developing behavioral health wellness programs.

''(8) Developing chronic disease prevention programs.

''(9) Developing substance abuse prevention programs.

''(10) Developing injury prevention and safety education programs.

''(11) Developing activities for the prevention and control of communicable diseases.

''(12) Developing community and environmental health education programs that include traditional health care practitioners.

''(13) Violence prevention.

''(14) Such other health issues as are appropriate.

''(c) TECHNICAL ASSISTANCE.—Upon request, the Secretary, acting through the Service, shall provide technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the development of comprehensive health education plans and the dissemination of comprehensive health education materials and information on existing health programs and resources.

''(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, acting through the Service, and in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall establish criteria for the review and approval of applications for funding provided pursuant to this section.

''(e) DEVELOPMENT OF PROGRAM FOR BIA FUNDED SCHOOLS.—

''(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, acting through the Service, and affected Indian Tribes and Tribal Organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools for which support is provided by the Bureau of Indian Affairs.

''(2) REQUIREMENTS FOR PROGRAMS.—Such programs shall include—

''(A) school programs on nutrition education, personal health, oral health, and fitness;

''(B) behavioral health wellness programs;

''(C) chronic disease prevention programs;

''(D) substance abuse prevention programs;

''(E) injury prevention and safety education programs; and

''(F) activities for the prevention and control of communicable diseases.

''(3) DUTIES OF THE SECRETARY.—The Secretary of the Interior shall—

''(A) provide training to teachers in comprehensive school health education curricula;

''(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

''(C) encourage healthy, tobacco-free school environments.

"SEC. 211. INDIAN YOUTH PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Service, is authorized to establish and administer a program to provide funding to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and Urban Indian preadolescent and adolescent youths.

''(b) USE OF FUNDS.—

''(1) ALLOWABLE USES.—Funds made available under this section may be used to—

''(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

''(B) develop and provide community training and education.

''(2) PROHIBITED USE.—Funds made available under this section may not be used to provide services described in section 707(c).

''(c) DUTIES OF THE SECRETARY.—The Secretary shall—

''(1) disseminate to Indian Tribes, Tribal Organizations, and Urban Indian Organizations information regarding models for the delivery of comprehensive health care services to Indian and Urban Indian adolescents;

''(2) encourage the implementation of such models; and

''(3) at the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance in the implementation of such models.

''(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall establish criteria for the review and approval of applications or proposals under this section.

"SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

''(a) FUNDING AUTHORIZED.—The Secretary, acting through the Service, and after consultation with Indian Tribes, Tribal Organizations, Urban Indian Organizations, and the

Centers for Disease Control and Prevention, may make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for the following:

''(1) Projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori.

''(2) Public information and education programs for the prevention, control, and elimination of communicable and infectious diseases.

''(3) Education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals.

''(4) Demonstration projects for the screening, treatment, and prevention of hepatitis C virus (HCV).

''(b) APPLICATION REQUIRED.—The Secretary may provide funding under subsection (a) only if an application or proposal for funding is submitted to the Secretary.

''(c) COORDINATION WITH HEALTH AGENCIES.—Indian Tribes, Tribal Organizations, and Urban Indian Organizations receiving funding under this section are encouraged to coordinate their activities with the Centers for Disease Control and Prevention and State and local health agencies.

''(d) TECHNICAL ASSISTANCE; REPORT.—In carrying out this section, the Secretary—

''(1) may, at the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance; and

''(2) shall prepare and submit a report to Congress biennially on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and Urban Indians.

''SEC. 213. AUTHORITY FOR PROVISION OF OTHER SERVICES.

''(a) FUNDING AUTHORIZED.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide funding under this Act to meet the objectives set forth in section 3 through health care-related services and programs not otherwise described in this Act, including—

''(1) hospice care;

''(2) assisted living;

''(3) long-term health care;

''(4) home- and community-based services; and

''(5) public health functions.

''(b) SERVICES TO OTHERWISE INELIGIBLE PERSONS.—Subject to section 807, at the discretion of the Service, Indian Tribes, or Tribal Organizations, services provided for hospice care, home- and community-based care, assisted living, and long-term care may be provided (subject to reimbursement) to persons otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to the Service or an Indian Tribe or Tribal Organization.

''(c) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

''(1) The term 'home- and community-based services' means 1 or more of the following:

''(A) Homemaker/home health aide services.

''(B) Chore services.

''(C) Personal care services.

''(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

''(E) Respite care.

''(F) Training for family members.

''(G) Adult day care.

''(H) Such other home- and community-based services as the Secretary, an Indian tribe, or a Tribal Organization may approve.

''(2) The term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian Tribe or Tribal Organization determines are necessary and appropriate to provide in furtherance of this care.

''(3) The term 'public health functions' means the provision of public health-related programs, functions, and services, including assessment, assurance, and policy development which Indian Tribes and Tribal Organizations are authorized and encouraged, in those circumstances where it meets their needs, to do by forming collaborative relationships with all levels of local, State, and Federal Government.

''SEC. 214. INDIAN WOMEN'S HEALTH CARE.

''The Secretary, acting through the Service and Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

''SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

''(a) STUDIES AND MONITORING.—The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian Tribes and Tribal Organizations, studies and ongoing monitoring programs to determine trends in the health hazards to Indian miners and to Indians on or near reservations and Indian communities as a result of environmental hazards which may result in chronic or life threatening health problems, such as nuclear resource development, petroleum contamination, and contamination of water source and of the food chain. Such studies shall include—

''(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

''(2) an analysis of the potential effect of ongoing and future environmental resource development on or near reservations and Indian communities, including the cumulative effect over time on health;

''(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal; oil and gas production or transportation on or near reservations or Indian communities; and other development that could affect the health of Indians and their water supply and food chain;

''(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

''(5) the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

''(b) HEALTH CARE PLANS.—Upon completion of such studies, the Secretary and the Service shall take into account the results of such studies and, in consultation with Indian Tribes and Tribal Organizations, develop health care plans to address the health problems studied under subsection (a). The plans shall include—

''(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

''(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

''(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

''(c) SUBMISSION OF REPORT AND PLAN TO CONGRESS.—The Secretary and the Service shall submit to Congress the study prepared under subsection (a) no later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005. The health care plan prepared under subsection (b) shall be submitted in a report no later than 1 year after the study prepared under subsection (a) is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

''(d) INTERGOVERNMENTAL TASK FORCE.—

''(1) ESTABLISHMENT; MEMBERS.—There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees):

''(A) The Secretary of Energy.

''(B) The Secretary of the Environmental Protection Agency.

''(C) The Director of the Bureau of Mines.

''(D) The Assistant Secretary for Occupational Safety and Health.

''(E) The Secretary of the Interior.

''(F) The Secretary of Health and Human Services.

''(G) The Director of the Indian Health Service.

''(2) DUTIES.—The Task Force shall—

''(A) identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near a reservation or in an Indian community; and

''(B) enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

''(3) CHAIRMAN; MEETINGS.—The Secretary of Health and Human Services shall be the Chairman of the Task Force. The Task Force shall meet at least twice each year.

''(e) HEALTH SERVICES TO CERTAIN EMPLOYEES.—In the case of any Indian who—

''(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work-related illness or condition;

''(2) is eligible to receive diagnosis and treatment services from an Indian Health Program; and

''(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard, the Indian Health Program shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may be reimbursed for any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the

rights of such Indian to recover damages other than such amounts paid to the Indian Health Program from the employer for providing medical care for such illness or condition.

"SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2015, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

"(b) MAINTENANCE OF SERVICES.—The Service shall not curtail any health care services provided to Indians residing on reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216A. NORTH DAKOTA AND SOUTH DAKOTA AS CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) IN GENERAL.—Beginning in fiscal year 2003, the States of North Dakota and South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota and South Dakota.

"(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on any reservation, or in any county that has a common boundary with any reservation, in the State of North Dakota or South Dakota if such curtailment is due to the provision of contract services in such States pursuant to the designation of such States as a contract health service delivery area pursuant to subsection (a).

"SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES PROGRAM.

"(a) FUNDING AUTHORIZED.—The Secretary is authorized to fund a program using the California Rural Indian Health Board (hereafter in this section referred to as the 'CRIHB') as a contract care intermediary to improve the accessibility of health services to California Indians.

"(b) REIMBURSEMENT CONTRACT.—The Secretary shall enter into an agreement with the CRIHB to reimburse the CRIHB for costs (including reasonable administrative costs) incurred pursuant to this section, in providing medical treatment under contract to California Indians described in section 806(a) throughout the California contract health services delivery area described in section 218 with respect to high cost contract care cases.

"(c) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts provided to the CRIHB under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the CRIHB during such fiscal year.

"(d) LIMITATION ON PAYMENT.—No payment may be made for treatment provided hereunder to the extent payment may be made for such treatment under the Indian Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(e) ADVISORY BOARD.—There is established an advisory board which shall advise the CRIHB in carrying out this section. The advisory board shall be composed of representatives, selected by the CRIHB, from not less than 8 Tribal Health Programs serving California Indians covered under this section at least one half of whom of whom are not affiliated with the CRIHB.

"SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to California Indians. However, any of the counties listed herein may only be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

"SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

"(a) AUTHORIZATION FOR SERVICES.—The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

"(b) NO EXPANSION OF ELIGIBILITY.—Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

"SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

"The Service shall provide funds for health care programs and facilities operated by Tribal Health Programs on the same basis as such funds are provided to programs and facilities operated directly by the Service.

"SEC. 221. LICENSING.

"Health care professionals employed by a Tribal Health Program shall, if licensed in any State, be exempt from the licensing requirements of the State in which the Tribal Health Program performs the services described in its contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"SEC. 222. NOTIFICATION OF PROVISION OF EMERGENCY CONTRACT HEALTH SERVICES.

"With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

"SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

"(a) DEADLINE FOR RESPONSE.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) EFFECT OF UNTIMELY RESPONSE.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) DEADLINE FOR PAYMENT OF VALID CLAIM.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

"SEC. 224. LIABILITY FOR PAYMENT.

"(a) NO PATIENT LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

"(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services not later than 5 business days after receipt of a notification of a claim by a provider of contract care services.

"(c) NO RECOURSE.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services.

"SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE III—FACILITIES

"SEC. 301. CONSULTATION: CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

"(a) PREREQUISITES FOR EXPENDITURE OF FUNDS.—Prior to the expenditure of, or the making of any binding commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall—

"(1) consult with any Indian Tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

"(2) ensure, whenever practicable and applicable, that such facility meets the construction standards of any accrediting body recognized by the Secretary for the purposes of the medicare, medicaid, and SCHIP programs under titles XVIII, XIX, and XXI of the Social Security Act by not later than 1 year after the date on which the construction or renovation of such facility is completed.

"(b) CLOSURES.—

"(1) EVALUATION REQUIRED.—Notwithstanding any other provision of law, no facility operated by the Service may be closed if the Secretary has not submitted to Congress at least 1 year prior to the date of the proposed closure an evaluation of the impact of the proposed closure which specifies, in addition to other considerations—

"(A) the accessibility of alternative health care resources for the population served by such facility;

"(B) the cost-effectiveness of such closure;

"(C) the quality of health care to be provided to the population served by such facility after such closure;

"(D) the availability of contract health care funds to maintain existing levels of service;

"(E) the views of the Indian Tribes served by such facility concerning such closure;

"(F) the level of use of such facility by all eligible Indians; and

"(G) the distance between such facility and the nearest operating Service hospital.

"(2) EXCEPTION FOR CERTAIN TEMPORARY CLOSURES.—Paragraph (1) shall not apply to any temporary closure of a facility or any portion of a facility if such closure is necessary for medical, environmental, or construction safety reasons.

"(c) HEALTH CARE FACILITY PRIORITY SYSTEM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a health care facility priority system, which shall—

''(i) be developed with Indian Tribes and Tribal Organizations through negotiated rulemaking under section 802;

''(ii) give Indian Tribes' needs the highest priority; and

''(iii) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E).

''(B) PRIORITY OF CERTAIN PROJECTS PROTECTED.—The priority of any project established under the construction priority system in effect on the date of the Indian Health Care Improvement Act Amendments of 2005 shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as 1 of the 10 top-priority inpatient projects, 1 of the 10 top-priority outpatient projects, 1 of the 10 top-priority staff quarters developments, or 1 of the 10 top-priority Youth Regional Treatment Centers in the fiscal year 2005 Indian Health Service budget justification, or if the project had completed both Phase I and Phase II of the construction priority system in effect on the date of enactment of such Act.

''(2) REPORT; CONTENTS.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 801, a report which sets forth the following:

''(A) A description of the health care facility priority system of the Service, established under paragraph (1).

''(B) Health care facilities lists, including—

''(i) the 10 top-priority inpatient health care facilities;

''(ii) the 10 top-priority outpatient health care facilities;

''(iii) the 10 top-priority specialized health care facilities (such as long-term care and alcohol and drug abuse treatment);

''(iv) the 10 top-priority staff quarters developments associated with health care facilities; and

''(v) the 10 top-priority hostels associated with health care facilities.

''(C) The justification for such order of priority.

''(D) The projected cost of such projects.

''(E) The methodology adopted by the Service in establishing priorities under its health care facility priority system.

''(3) REQUIREMENTS FOR PREPARATION OF REPORTS.—In preparing each report required under paragraph (2) (other than the initial report), the Secretary shall annually—

''(A) consult with and obtain information on all health care facilities needs from Indian Tribes, Tribal Organizations, and Urban Indian Organizations; and

''(B) review the total unmet needs of all Indian Tribes, Tribal Organizations, and Urban Indian Organizations for health care facilities (including hostels and staff quarters), including needs for renovation and expansion of existing facilities.

''(4) CRITERIA FOR EVALUATING NEEDS.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(5) NEEDS OF FACILITIES UNDER ISDEAA AGREEMENTS.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities operated under contracts or compacts in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are fully and equitably integrated into the health care facility priority system.

''(d) REVIEW OF NEED FOR FACILITIES.—

''(1) INITIAL REPORT.—In the year 2006, the Government Accountability Office shall prepare and finalize a report which sets forth the needs of the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, for the facilities listed under subsection (c)(2)(B), including the needs for renovation and expansion of existing facilities. The Government Accountability Office shall submit the report to the appropriate authorizing and appropriations committees of Congress and to the Secretary.

''(2) Beginning in the year 2006, the Secretary shall update the report required under paragraph (1) every 5 years.

''(3) The Comptroller General and the Secretary shall consult with Indian Tribes, Tribal Organizations, and Urban Indian Organizations. The Secretary shall submit the reports required by paragraphs (1) and (2), to the President for inclusion in the report required to be transmitted to Congress under section 801.

''(4) For purposes of this subsection, the reports shall, regarding the needs of facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), be based on the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(5) The planning, design, construction, and renovation needs of facilities operated under contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be fully and equitably integrated into the development of the health facility priority system.

''(6) Beginning in 2007 and each fiscal year thereafter, the Secretary shall provide an opportunity for nomination of planning, design, and construction projects by the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations for consideration under the health care facility priority system.

''(e) FUNDING CONDITION.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), for the planning, design, construction, or renovation of health facilities for the benefit of 1 or more Indian Tribes shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(f) DEVELOPMENT OF INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian Tribes, Tribal Organizations, and Urban Indian Organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

"SEC. 302. SANITATION FACILITIES.

''(a) FINDINGS.—Congress finds the following:

''(1) The provision of sanitation facilities is primarily a health consideration and function.

''(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of sanitation facilities.

''(3) The long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing sanitation facilities and other preventive health measures.

''(4) Many Indian homes and Indian communities still lack sanitation facilities.

''(5) It is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with sanitation facilities.

''(b) FACILITIES AND SERVICES.—In furtherance of the findings made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a). Under such authority, the Secretary, acting through the Service, is authorized to provide the following:

''(1) Financial and technical assistance to Indian Tribes, Tribal Organizations, and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the Indian Tribe, Tribal Organization, or Indian community.

''(2) Ongoing technical assistance and training to Indian Tribes, Tribal Organizations, and Indian communities in the management of utility organizations which operate and maintain sanitation facilities.

''(3) Priority funding for operation and maintenance assistance for, and emergency repairs to, sanitation facilities operated by an Indian Tribe, Tribal Organization or Indian community when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

''(c) FUNDING.—Notwithstanding any other provision of law—

''(1) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

''(2) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

''(3) unless specifically authorized when funds are appropriated, the Secretary shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

''(4) the Secretary of Health and Human Services is authorized to accept from any source, including Federal and State agencies, funds for the purpose of providing sanitation facilities and services and place these funds into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

''(5) except as otherwise prohibited by this section, the Secretary may use funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to fund up to 100 percent of the amount of an Indian Tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

''(6) except as otherwise prohibited by this section, the Secretary may use funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

''(7) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned, or appropriated whereby the Department's applicable policies, rules, and regulations shall apply in the implementation of such projects;

''(8) the Secretary of Health and Human Services shall enter into interagency agreements with Federal and State agencies for the purpose of providing financial assistance for sanitation facilities and services under this Act; and

''(9) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design, and construction of sanitation facilities funded under this Act.

''(d) CERTAIN CAPABILITIES NOT PREREQUISITE.—The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

''(e) FINANCIAL ASSISTANCE.—The Secretary is authorized to provide financial assistance to Indian Tribes, Tribal Organizations, and Indian communities for operation, management, and maintenance of their sanitation facilities.

''(f) OPERATION, MANAGEMENT, AND MAINTENANCE OF FACILITIES.—The Indian Tribe has the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating, managing, and maintaining sanitation facilities. If a sanitation facility serving a community that is operated by an Indian Tribe or Tribal Organization is threatened with imminent failure and such operator lacks capacity to maintain the integrity or the health benefits of the sanitation facility, then the Secretary is authorized to assist the Indian Tribe, Tribal Organization, or Indian community in the resolution of the problem on a short-term basis through cooperation with the emergency coordinator or by providing operation, management, and maintenance service.

''(g) ISDEAA PROGRAM FUNDED ON EQUAL BASIS.—Tribal Health Programs shall be eligible (on an equal basis with programs that are administered directly by the Service) for—

''(1) any funds appropriated pursuant to this section; and

''(2) any funds appropriated for the purpose of providing sanitation facilities.

''(h) REPORT.—

''(1) REQUIRED; CONTENTS.—The Secretary, in consultation with the Secretary of Housing and Urban Development, Indian Tribes, Tribal Organizations, and tribally designated housing entities (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 801, a report which sets forth—

''(A) the current Indian sanitation facility priority system of the Service;

''(B) the methodology for determining sanitation deficiencies and needs;

''(C) the level of initial and final sanitation deficiency for each type of sanitation facility for each project of each Indian Tribe or Indian community;

''(D) the amount and most effective use of funds, derived from whatever source, necessary to accommodate the sanitation facilities needs of new homes assisted with funds under the Native American Housing Assistance and Self-Determination Act, and to reduce the identified sanitation deficiency levels of all Indian Tribes and Indian communities to level I sanitation deficiency as defined in paragraph (4)(A); and

''(E) a 10-year plan to provide sanitation facilities to serve existing Indian homes and Indian communities and new and renovated Indian homes.

''(2) CRITERIA.—The criteria on which the deficiencies and needs will be evaluated shall be developed through negotiated rulemaking pursuant to section 802.

''(3) UNIFORM METHODOLOGY.—The methodology used by the Secretary in determining, preparing cost estimates for, and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian Tribes and Indian communities.

''(4) SANITATION DEFICIENCY LEVELS.—For purposes of this subsection, the sanitation deficiency levels for an individual, Indian Tribe, or Indian community sanitation facility to serve Indian homes are determined as follows:

''(A) A level I deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community—

''(i) complies with all applicable water supply, pollution control, and solid waste disposal laws; and

''(ii) deficiencies relate to routine replacement, repair, or maintenance needs.

''(B) A level II deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community substantially or recently complied with all applicable water supply, pollution control, and solid waste laws and any deficiencies relate to—

''(i) small or minor capital improvements needed to bring the facility back into compliance;

''(ii) capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

''(iii) the lack of equipment or training by an Indian Tribe, Tribal Organization, or an Indian community to properly operate and maintain the sanitation facilities.

''(C) A level III deficiency exists if a sanitation facility serving an individual, Indian Tribe or Indian community meets one or more of the following conditions—

''(i) water or sewer service in the home is provided by a haul system with holding tanks and interior plumbing;

''(ii) major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies; or

''(iii) there is no access to or no approved or permitted solid waste facility available.

''(D) A level IV deficiency exists if—

''(i) a sanitation facility of an individual, Indian Tribe, Tribal Organization, or Indian community has no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure; or

''(ii) where only a washeteria or central facility exists in the community.

''(E) A level V deficiency exists in the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater (including sewage) disposal.

''(i) DEFINITIONS.—For purposes of this section, the following terms apply:

''(1) INDIAN COMMUNITY.—The term 'Indian community' means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

''(2) SANITATION FACILITIES.—The terms 'sanitation facility' and 'sanitation facilities' mean safe and adequate water supply systems, sanitary sewage disposal systems, and sanitary solid waste systems (and all related equipment and support infrastructure).

''SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

''(a) BUY INDIAN ACT.—The Secretary, acting through the Service, may use the negotiating authority of section 23 of the Act of June 25, 1910 (25 U.S.C. 47, commonly known as the 'Buy Indian Act'), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian Tribes in the State of New York (hereinafter referred to as an 'Indian firm') in the construction and renovation of Service facilities pursuant to section 301 and in the construction of sanitation facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to regulations adopted pursuant to section 802, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such a finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

''(1) ownership and control by Indians;

''(2) equipment;

''(3) bookkeeping and accounting procedures;

''(4) substantive knowledge of the project or function to be contracted for;

''(5) adequately trained personnel; or

''(6) other necessary components of contract performance.

''(b) LABOR STANDARDS.—

''(1) IN GENERAL.—For the purposes of implementing the provisions of this title, contracts for the construction or renovation of health care facilities, staff quarters, and sanitation facilities, and related support infrastructure, funded in whole or in part with funds made available pursuant to this title, shall contain a provision requiring compliance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the 'Davis-Bacon Act'), unless such construction or renovation—

''(A) is performed by a contractor pursuant to a contract with an Indian Tribe or Tribal Organization with funds supplied through a contract or compact authorized by the Indian Self-Determination and Education Assistance Act, or other statutory authority; and

''(B) is subject to prevailing wage rates for similar construction or renovation in the locality as determined by the Indian Tribes or Tribal Organizations to be served by the construction or renovation.

''(2) EXCEPTION.—This subsection shall not apply to construction or renovation carried out by an Indian Tribe or Tribal Organization with its own employees.

''SEC. 304. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, if the requirements of subsection (c) are met, the Secretary, acting through the Service, is authorized to accept any major expansion, renovation, or modernization by any Indian Tribe or Tribal Organization of any Service facility or of any other Indian health facility operated pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including—

''(1) any plans or designs for such expansion, renovation, or modernization; and

''(2) any expansion, renovation, or modernization for which funds appropriated under any Federal law were lawfully expended.

''(b) PRIORITY LIST.—

''(1) IN GENERAL.—The Secretary shall maintain a separate priority list to address

the needs for increased operating expenses, personnel, or equipment for such facilities. The methodology for establishing priorities shall be developed through negotiated rulemaking under section 802. The list of priority facilities will be revised annually in consultation with Indian Tribes and Tribal Organizations.

''(2) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 801, the priority list maintained pursuant to paragraph (1).

''(c) REQUIREMENTS.—The requirements of this subsection are met with respect to any expansion, renovation, or modernization if—

''(1) the Indian Tribe or Tribal Organization—

''(A) provides notice to the Secretary of its intent to expand, renovate, or modernize; and

''(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel, or equipment; and

''(2) the expansion, renovation, or modernization—

''(A) is approved by the appropriate area director of the Service for Federal facilities; and

''(B) is administered by the Indian Tribe or Tribal Organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

''(d) ADDITIONAL REQUIREMENT FOR EXPANSION.—In addition to the requirements under subsection (c), for any expansion, the Indian Tribe or Tribal Organization shall provide to the Secretary additional information developed through negotiated rulemaking under section 802, including additional staffing, equipment, and other costs associated with the expansion.

''(e) CLOSURE OR CONVERSION OF FACILITIES.—If any Service facility which has been expanded, renovated, or modernized by an Indian Tribe or Tribal Organization under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation, or modernization is completed, such Indian Tribe or Tribal Organization shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation, or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation, or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation, or modernization.

"SEC. 305. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

''(a) FUNDING.—

''(1) IN GENERAL.—The Secretary, acting through the Service, in consultation with Indian Tribes and Tribal Organizations, shall make grants to Indian Tribes and Tribal Organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons pursuant to subsections (b)(2) and (c)(1)(C)). Funding made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

''(2) AGREEMENT REQUIRED.—Funding under paragraph (1) may only be made available to a Tribal Health Program operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian Tribe or Tribal Organization).

''(b) USE OF FUNDS.—

''(1) ALLOWABLE USES.—Funding provided under this section may be used for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

''(A) located apart from a hospital;

''(B) not funded under section 301 or section 307; and

''(C) which, upon completion of such construction or modernization will—

''(i) have a total capacity appropriate to its projected service population;

''(ii) provide annually no fewer than 150 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(c)(2); and

''(iii) provide ambulatory care in a Service Area (specified in the contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) with a population of no fewer than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(c)(2).

''(2) ADDITIONAL ALLOWABLE USE.—The Secretary may also reserve a portion of the funding provided under this section and use those reserved funds to reduce an outstanding debt incurred by Indian Tribes or Tribal Organizations for the construction, expansion, or modernization of an ambulatory care facility that meets the requirements under paragraph (1). The provisions of this section shall apply, except that such applications for funding under this paragraph shall be considered separately from applications for funding under paragraph (1).

''(3) USE ONLY FOR CERTAIN PORTION OF COSTS.—Funding provided under this section may be used only for the cost of that portion of a construction, expansion, or modernization project that benefits the Service population identified above in subsection (b)(1)(C)(ii) and (iii). The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to an Indian Tribe or Tribal Organization applying for funding under this section for a health care facility located or to be constructed on an island or when such facility is not located on a road system providing direct access to an inpatient hospital where care is available to the Service population.

''(c) FUNDING.—

''(1) APPLICATION.—No funding may be made available under this section unless an application or proposal for such funding has been approved by the Secretary in accordance with applicable regulations and has forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding received under this section—

''(A) adequate financial support will be available for the provision of services at such facility;

''(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

''(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

''(2) PRIORITY.—In awarding funding under this section, the Secretary shall give priority to Indian Tribes and Tribal Organizations that demonstrate—

''(A) a need for increased ambulatory care services; and

''(B) insufficient capacity to deliver such services.

''(3) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and proposals and to advise the Secretary regarding such applications using the criteria developed during consultations pursuant to subsection (a)(1).

''(d) REVERSION OF FACILITIES.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be used for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian Tribe or Tribal Organization.

''(e) FUNDING NONRECURRING.—Funding provided under this section shall be nonrecurring and shall not be available for inclusion in any individual Indian Tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.

"SEC. 306. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

''(a) HEALTH CARE DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, is authorized to enter into construction agreements under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services to Indians through facilities.

''(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

''(1) waive any leasing prohibition;

''(2) permit carryover of funds appropriated for the provision of health care services;

''(3) permit the use of other available funds;

''(4) permit the use of funds or property donated from any source for project purposes;

''(5) provide for the reversion of donated real or personal property to the donor; and

''(6) permit the use of Service funds to match other funds, including Federal funds.

''(c) REGULATIONS.—The Secretary shall develop and promulgate regulations not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005. If the Secretary has not promulgated regulations by that date, the Secretary shall develop and publish regulations, through rulemaking under section 802, for the review and approval of applications submitted under this section.

''(d) CRITERIA.—The Secretary may approve projects that meet the following criteria:

''(1) There is a need for a new facility or program or the reorientation of an existing facility or program.

''(2) A significant number of Indians, including those with low health status, will be served by the project.

''(3) The project has the potential to deliver services in an efficient and effective manner.

''(4) The project is economically viable.

''(5) The Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

''(6) The project is integrated with providers of related health and social services

and is coordinated with, and avoids duplication of, existing services.

''(e) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications using the criteria developed pursuant to subsection (d).

''(f) PRIORITY.—The Secretary shall give priority to applications for demonstration projects in each of the following Service Units to the extent that such applications are timely filed and meet the criteria specified in subsection (d):

''(1) Cass Lake, Minnesota.
''(2) Clinton, Oklahoma.
''(3) Harlem, Montana.
''(4) Mescalero, New Mexico.
''(5) Owyhee, Nevada.
''(6) Parker, Arizona.
''(7) Schurz, Nevada.
''(8) Winnebago, Nebraska.
''(9) Ft. Yuma, California.

''(g) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(h) SERVICE TO INELIGIBLE PERSONS.—Subject to section 807, the authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health practitioners as provided in section 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

''(i) EQUITABLE TREATMENT.—For purposes of subsection (d)(1), the Secretary shall, in evaluating facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

''(j) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities which are the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for health services are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

''SEC. 307. LAND TRANSFER.

''Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

''SEC. 308. LEASES, CONTRACTS, AND OTHER AGREEMENTS.

''The Secretary, acting through the Service, may enter into leases, contracts, and other agreements with Indian Tribes and Tribal Organizations which hold (1) title to, (2) a leasehold interest in, or (3) a beneficial interest in (when title is held by the United States in trust for the benefit of an Indian Tribe) facilities used or to be used for the administration and delivery of health services by an Indian Health Program. Such leases, contracts, or agreements may include provisions for construction or renovation and provide for compensation to the Indian Tribe or Tribal Organization of rental and other costs consistent with section 105(*l*) of the Indian Self-Determination and Education Assistance Act and regulations thereunder.

''SEC. 309. STUDY ON LOANS, LOAN GUARANTEES, AND LOAN REPAYMENT.

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Treasury, Indian Tribes, and Tribal Organizations, shall carry out a study to determine the feasibility of establishing a loan fund to provide to Indian Tribes and Tribal Organizations direct loans or guarantees for loans for the construction of health care facilities, including—

''(1) inpatient facilities;
''(2) outpatient facilities;
''(3) staff quarters;
''(4) hostels; and
''(5) specialized care facilities, such as behavioral health and elder care facilities.

''(b) DETERMINATIONS.—In carrying out the study under subsection (a), the Secretary shall determine—

''(1) the maximum principal amount of a loan or loan guarantee that should be offered to a recipient from the loan fund;

''(2) the percentage of eligible costs, not to exceed 100 percent, that may be covered by a loan or loan guarantee from the loan fund (including costs relating to planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, and other facility-related costs and capital purchase (but excluding staffing));

''(3) the cumulative total of the principal of direct loans and loan guarantees, respectively, that may be outstanding at any 1 time;

''(4) the maximum term of a loan or loan guarantee that may be made for a facility from the loan fund;

''(5) the maximum percentage of funds from the loan fund that should be allocated for payment of costs associated with planning and applying for a loan or loan guarantee;

''(6) whether acceptance by the Secretary of an assignment of the revenue of an Indian Tribe or Tribal Organization as security for any direct loan or loan guarantee from the loan fund would be appropriate;

''(7) whether, in the planning and design of health facilities under this section, users eligible under section 807(c) may be included in any projection of patient population;

''(8) whether funds of the Service provided through loans or loan guarantees from the loan fund should be eligible for use in matching other Federal funds under other programs;

''(9) the appropriateness of, and best methods for, coordinating the loan fund with the health care priority system of the Service under section 301; and

''(10) any legislative or regulatory changes required to implement recommendations of the Secretary based on results of the study.

''(c) REPORT.—Not later than September 30, 2007, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives a report that describes—

''(1) the manner of consultation made as required by subsection (a); and

''(2) the results of the study, including any recommendations of the Secretary based on results of the study.

''SEC. 310. TRIBAL LEASING.

''A Tribal Health Program may lease permanent structures for the purpose of providing health care services without obtaining advance approval in appropriation Acts.

''SEC. 311. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian Tribes and Tribal Organizations to establish joint venture demonstration projects under which an Indian Tribe or Tribal Organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. An Indian Tribe or Tribal Organization may use tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under a joint venture entered into under this subsection. An Indian Tribe or Tribal Organization shall be eligible to establish a joint venture project if, when it submits a letter of intent, it—

''(1) has begun but not completed the process of acquisition or construction of a health facility to be used in the joint venture project; or

''(2) has not begun the process of acquisition or construction of a health facility for use in the joint venture project.

''(b) REQUIREMENTS.—The Secretary shall make such an arrangement with an Indian Tribe or Tribal Organization only if—

''(1) the Secretary first determines that the Indian Tribe or Tribal Organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the relevant health facility; and

''(2) the Indian Tribe or Tribal Organization meets the need criteria which shall be developed through the negotiated rulemaking process provided for under section 802.

''(c) CONTINUED OPERATION.—The Secretary shall negotiate an agreement with the Indian Tribe or Tribal Organization regarding the continued operation of the facility at the end of the initial 10 year no-cost lease period.

''(d) BREACH OF AGREEMENT.—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the Indian Tribe or Tribal Organization, or paid to a third party on the Indian Tribe's or Tribal Organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies) and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, personnel, or staffing.

''(e) RECOVERY FOR NONUSE.—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this subsection shall be entitled to recover from the United States an amount that is proportional to the value of such facility if, at any time within the 10-year term of the agreement, the Service ceases to use the facility or otherwise breaches the agreement.

''(f) DEFINITION.—For the purposes of this section, the term 'health facility' or 'health facilities' includes quarters needed to provide housing for staff of the relevant Tribal Health Program.

''SEC. 312. LOCATION OF FACILITIES.

''(a) IN GENERAL.—In all matters involving the reorganization or development of Service facilities or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, the Bureau of Indian Affairs and the Service shall give priority to locating such facilities and projects on Indian lands, or lands in Alaska owned by any Alaska Native village, or village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native, if requested by the Indian owner and

the Indian Tribe with jurisdiction over such lands or other lands owned or leased by the Indian Tribe or Tribal Organization. Top priority shall be given to Indian land owned by 1 or more Indian Tribes.

''(b) DEFINITION.—For purposes of this section, the term 'Indian lands' means—

''(1) all lands within the exterior boundaries of any reservation; and

''(2) any lands title to which is held in trust by the United States for the benefit of any Indian Tribe or individual Indian or held by any Indian Tribe or individual Indian subject to restriction by the United States against alienation.

''SEC. 313. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

''(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which identifies the backlog of maintenance and repair work required at both Service and tribal health care facilities, including new health care facilities expected to be in operation in the next fiscal year. The report shall also identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

''(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—The Secretary, acting through the Service, is authorized to expend maintenance and improvement funds to support maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian Tribe or Tribal Organization. Supportable space allocation shall be defined through the negotiated rulemaking process provided for under section 802.

''(c) REPLACEMENT FACILITIES.—In addition to using maintenance and improvement funds for renovation, modernization, and expansion of facilities, an Indian Tribe or Tribal Organization may use maintenance and improvement funds for construction of a replacement facility if the costs of renovation of such facility would exceed a maximum renovation cost threshold. The maximum renovation cost threshold shall be determined through the negotiated rulemaking process provided for under section 802.

''SEC. 314. TRIBAL MANAGEMENT OF FEDERALLY OWNED QUARTERS.

''(a) RENTAL RATES.—

''(1) ESTABLISHMENT.—Notwithstanding any other provision of law, a Tribal Health Program which operates a hospital or other health facility and the federally owned quarters associated therewith pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall have the authority to establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

''(2) OBJECTIVES.—In establishing rental rates pursuant to authority of this subsection, a Tribal Health Program shall endeavor to achieve the following objectives:

''(A) To base such rental rates on the reasonable value of the quarters to the occupants thereof.

''(B) To generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and subject to the discretion of the Tribal Health Program, to supply reserve funds for capital repairs and replacement of the quarters.

''(3) EQUITABLE FUNDING.—Any quarters whose rental rates are established by a Tribal Health Program pursuant to this subsection shall remain eligible for quarters improvement and repair funds to the same extent as all federally owned quarters used to house personnel in Services-supported programs.

''(4) NOTICE OF RATE CHANGE.—A Tribal Health Program which exercises the authority provided under this subsection shall provide occupants with no less than 60 days notice of any change in rental rates.

''(b) DIRECT COLLECTION OF RENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), a Tribal Health Program shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

''(A) The Tribal Health Program shall notify the Secretary and the subject Federal employees of its election to exercise its authority to collect rents directly from such Federal employees.

''(B) Upon receipt of a notice described in subparagraph (A), the Federal employees shall pay rents for occupancy of such quarters directly to the Tribal Health Program and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

''(C) Such rent payments shall be retained by the Tribal Health Program and shall not be made payable to or otherwise be deposited with the United States.

''(D) Such rent payments shall be deposited into a separate account which shall be used by the Tribal Health Program for the maintenance (including capital repairs and replacement) and operation of the quarters and facilities as the Tribal Health Program shall determine.

''(2) RETROCESSION OF AUTHORITY.—If a Tribal Health Program which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying federally owned quarters, such retrocession shall become effective on the earlier of—

''(A) the first day of the month that begins no less than 180 days after the Tribal Health Program notifies the Secretary of its desire to retrocede; or

''(B) such other date as may be mutually agreed by the Secretary and the Tribal Health Program.

''(c) RATES IN ALASKA.—To the extent that a Tribal Health Program, pursuant to authority granted in subsection (a), establishes rental rates for federally owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

''SEC. 315. APPLICABILITY OF BUY AMERICAN ACT REQUIREMENT.

''(a) APPLICABILITY.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to section 317. Indian Tribes and Tribal Organizations shall be exempt from these requirements.

''(b) EFFECT OF VIOLATION.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to section 317, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

''(c) DEFINITIONS.—For purposes of this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

''SEC. 316. OTHER FUNDING FOR FACILITIES.

''(a) AUTHORITY TO ACCEPT FUNDS.—The Secretary is authorized to accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design, and construct health care facilities for Indians and to place such funds into a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). Receipt of such funds shall have no effect on the priorities established pursuant to section 301.

''(b) INTERAGENCY AGREEMENTS.—The Secretary is authorized to enter into interagency agreements with other Federal agencies or State agencies and other entities and to accept funds from such Federal or State agencies or other sources to provide for the planning, design, and construction of health care facilities to be administered by Indian Health Programs in order to carry out the purposes of this Act and the purposes for which the funds were appropriated or for which the funds were otherwise provided.

''(c) TRANSFERRED FUNDS.—Any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency.

''(d) ESTABLISHMENT OF STANDARDS.—The Secretary, through the Service, shall establish standards by regulation, developed by rulemaking under section 802, for the planning, design, and construction of health care facilities serving Indians under this Act.

''SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE IV—ACCESS TO HEALTH SERVICES

''SEC. 401. TREATMENT OF PAYMENTS UNDER SOCIAL SECURITY ACT HEALTH CARE PROGRAMS.

''(a) DISREGARD OF MEDICARE, MEDICAID, AND SCHIP PAYMENTS IN DETERMINING APPROPRIATIONS.—Any payments received by an Indian Health Program or by an Urban Indian Organization made under title XVIII, XIX, or XXI of the Social Security Act for services provided to Indians eligible for benefits under such respective titles shall not be considered in determining appropriations for the provision of health care and services to Indians.

''(b) NONPREFERENTIAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian with coverage under title XVIII, XIX, or XXI of the Social Security Act in preference to an Indian without such coverage.

''(c) USE OF FUNDS.—

''(1) SPECIAL FUND.—Notwithstanding any other provision of law, but subject to paragraph (2), payments to which a facility of the Service is entitled by reason of a provision of the Social Security Act shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of titles XVIII, XIX, and XXI of the Social Security Act. Any amounts to be reimbursed that are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with Indian Tribes being served by the Service Unit, be used for reducing the

health resource deficiencies of the Indian Tribes. In making payments from such fund, the Secretary shall ensure that each Service Unit of the Service receives 100 percent of the amount to which the facilities of the Service, for which such Service Unit makes collections, are entitled by reason of a provision of the Social Security Act.

''(2) DIRECT PAYMENT OPTION.—Paragraph (1) shall not apply upon the election of a Tribal Health Program under subsection (d) to receive payments directly. No payment may be made out of the special fund described in such paragraph with respect to reimbursement made for services provided during the period of such election.

''(d) DIRECT BILLING.—

''(1) IN GENERAL.—A Tribal Health Program may directly bill for, and receive payment for, health care items and services provided by such Indian Tribe or Tribal organization for which payment is made under title XVIII, XIX, or XXI of the Social Security Act or from any other third party payor.

''(2) DIRECT REIMBURSEMENT.—

''(A) USE OF FUNDS.—Each Tribal Health Program exercising the option described in paragraph (1) with respect to a program under a title of the Social Security Act shall be reimbursed directly by that program for items and services furnished without regard to section 401(c), but all amounts so reimbursed shall be used by the Tribal Health Program for the purpose of making any improvements in Tribal facilities or Tribal Health Programs that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to such items and services under the program under such title and to provide additional health care services, improvements in health care facilities and Tribal Health Programs, any health care-related purpose, or otherwise to achieve the objectives provided in section 3 of this Act.

''(B) AUDITS.—The amounts paid to an Indian Tribe or Tribal Organization exercising the option described in paragraph (1) with respect to a program under a title of the Social Security Act shall be subject to all auditing requirements applicable to programs administered by an Indian Health Program.

''(C) IDENTIFICATION OF SOURCE OF PAYMENTS.—If an Indian Tribe or Tribal Organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an Urban Indian Organization receives funding from the Service under title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, such Indian Tribe or Tribal Organization, or Urban Indian Organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives such reimbursements or payments.

''(3) EXAMINATION AND IMPLEMENTATION OF CHANGES.—The Secretary, acting through the Service and with the assistance of the Administrator of the Centers for Medicare & Medicaid Services, shall examine on an ongoing basis and implement any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this subsection, including any agreements with States that may be necessary to provide for direct billing under a program under a title of the Social Security Act.

''(4) WITHDRAWAL FROM PROGRAM.—A Tribal Health Program that bills directly under the program established under this subsection may withdraw from participation in the same manner and under the same conditions that an Indian Tribe or Tribal Organization may retrocede a contracted program to the Secretary under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this subsection shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

''SEC. 402. GRANTS TO AND CONTRACTS WITH THE SERVICE, INDIAN TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.

''(a) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary, acting through the Service, shall make grants to or enter into contracts with Indian Tribes and Tribal Organizations to assist such Tribes and Tribal Organizations in establishing and administering programs on or near reservations and trust lands to assist individual Indians—

''(1) to enroll for benefits under title XVIII, XIX, or XXI of the Social Security Act and other health benefits programs; and

''(2) to pay premiums for coverage for such benefits, which may be based on financial need (as determined by the Indian Tribe or Tribes being served based on a schedule of income levels developed or implemented by such Tribe or Tribes).

''(b) CONDITIONS.—The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any grant or contract which the Secretary makes with any Indian Tribe or Tribal Organization pursuant to this section. Such conditions shall include requirements that the Indian Tribe or Tribal Organization successfully undertake—

''(1) to determine the population of Indians eligible for the benefits described in subsection (a);

''(2) to educate Indians with respect to the benefits available under the respective programs;

''(3) to provide transportation for such individual Indians to the appropriate offices for enrollment or applications for such benefits; and

''(4) to develop and implement methods of improving the participation of Indians in receiving the benefits provided under titles XVIII, XIX, and XXI of the Social Security Act.

''(c) AGREEMENTS RELATING TO IMPROVING ENROLLMENT OF INDIANS UNDER SOCIAL SECURITY ACT PROGRAMS.—

''(1) AGREEMENTS WITH SECRETARY TO IMPROVE RECEIPT AND PROCESSING OF APPLICATIONS.—

''(A) AUTHORIZATION.—The Secretary, acting through the Service, may enter into an agreement with an Indian Tribe, Tribal Organization, or Urban Indian Organization which provides for the receipt and processing of applications by Indians for assistance under titles XIX and XXI of the Social Security Act, and benefits under title XVIII of such Act, by an Indian Health Program or Urban Indian Organization.

''(B) REIMBURSEMENT OF COSTS.—Such agreements may provide for reimbursement of costs of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may, as appropriate, be added to the applicable rate per encounter or be provided as a separate fee-for-service payment to the Indian Tribe or Tribal Organization.

''(C) PROCESSING CLARIFIED.—In this paragraph, the term 'processing' does not include a final determination of eligibility.

''(2) AGREEMENTS WITH STATES FOR OUTREACH ON OR NEAR RESERVATION.—

''(A) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under title XIX or XXI of the Social Security Act, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with Indian Tribes and Tribal Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are provided.

''(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as affecting arrangements entered into between States and Indian Tribes and Tribal Organizations for such Indian Tribes and Tribal Organizations to conduct administrative activities under such titles.

''(d) FACILITATING COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations.

''(e) APPLICATION TO URBAN INDIAN ORGANIZATIONS.—

''(1) IN GENERAL.—The provisions of subsection (a) shall apply with respect to grants and other funding to Urban Indian Organizations with respect to populations served by such organizations in the same manner they apply to grants and contracts with Indian Tribes and Tribal Organizations with respect to programs on or near reservations.

''(2) REQUIREMENTS.—The Secretary shall include in the grants or contracts made or provided under paragraph (1) requirements that are—

''(A) consistent with the requirements imposed by the Secretary under subsection (b);

''(B) appropriate to Urban Indian Organizations and Urban Indians; and

''(C) necessary to effect the purposes of this section.

''SEC. 403. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

''(a) RIGHT OF RECOVERY.—Except as provided in subsection (f), the United States, an Indian Tribe, or Tribal Organization shall have the right to recover from an insurance company, health maintenance organization, employee benefit plan, third-party tortfeasor, or any other responsible or liable third party (including a political subdivision or local governmental entity of a State) the reasonable charges as determined by the Secretary, and billed by the Secretary, an Indian Tribe, or Tribal Organization, in providing health services, through the Service, an Indian Tribe, or Tribal Organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive damages, reimbursement, or indemnification for such charges or expenses if—

''(1) such services had been provided by a nongovernmental provider; and

''(2) such individual had been required to pay such charges or expenses and did pay such charges or expenses.

''(b) LIMITATIONS ON RECOVERIES FROM STATES.—Subsection (a) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

''(1) workers' compensation laws; or

''(2) a no-fault automobile accident insurance plan or program.

''(c) NONAPPLICATION OF OTHER LAWS.—No law of any State, or of any political subdivision of a State and no provision of any contract, insurance or health maintenance organization policy, employee benefit plan, self-insurance plan, managed care plan, or other health care plan or program entered into or renewed after the date of the enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States, an Indian Tribe, or Tribal Organization under subsection (a).

''(d) NO EFFECT ON PRIVATE RIGHTS OF ACTION.—No action taken by the United States, an Indian Tribe, or Tribal Organization to enforce the right of recovery provided under this section shall operate to deny to the injured person the recovery for that portion of the person's damage not covered hereunder.

''(e) ENFORCEMENT.—

''(1) IN GENERAL.—The United States, an Indian Tribe, or Tribal Organization may enforce the right of recovery provided under subsection (a) by—

''(A) intervening or joining in any civil action or proceeding brought—

''(i) by the individual for whom health services were provided by the Secretary, an Indian Tribe, or Tribal Organization; or

''(ii) by any representative or heirs of such individual, or

''(B) instituting a civil action, including a civil action for injunctive relief and other relief and including, with respect to a political subdivision or local governmental entity of a State, such an action against an official thereof.

''(2) NOTICE.—All reasonable efforts shall be made to provide notice of action instituted under paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

''(f) LIMITATION.—Absent specific written authorization by the governing body of an Indian Tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), the United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian Tribe, Tribal Organization, or Urban Indian Organization. Where such authorization is provided, the Service may receive and expend such amounts for the provision of additional health services consistent with such authorization.

''(g) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded its reasonable attorneys' fees and costs of litigation.

''(h) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—An insurance company, health maintenance organization, self-insurance plan, managed care plan, or other health care plan or program (under the Social Security Act or otherwise) may not deny a claim for benefits submitted by the Service or by an Indian Tribe or Tribal Organization based on the format in which the claim is submitted if such format complies with the format required for submission of claims under title XVIII of the Social Security Act or recognized under section 1175 of such Act.

''(i) APPLICATION TO URBAN INDIAN ORGANIZATIONS.—The previous provisions of this section shall apply to Urban Indian Organizations with respect to populations served by such Organizations in the same manner they apply to Indian Tribes and Tribal Organizations with respect to populations served by such Indian Tribes and Tribal Organizations.

''(j) STATUTE OF LIMITATIONS.—The provisions of section 2415 of title 28, United States Code, shall apply to all actions commenced under this section, and the references therein to the United States are deemed to include Indian Tribes, Tribal Organizations, and Urban Indian Organizations.

''(k) SAVINGS.—Nothing in this section shall be construed to limit any right of recovery available to the United States, an Indian Tribe, or Tribal Organization under the provisions of any applicable, Federal, State, or Tribal law, including medical lien laws and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.).

''SEC. 404. CREDITING OF REIMBURSEMENTS.

''(a) USE OF AMOUNTS.—

''(1) RETENTION BY PROGRAM.—Except as provided in section 202(g) (relating to the Catastrophic Health Emergency Fund) and section 807 (relating to health services for ineligible persons), all reimbursements received or recovered under any of the programs described in paragraph (2), including under section 807, by reason of the provision of health services by the Service, by an Indian Tribe or Tribal Organization, or by an Urban Indian Organization, shall be credited to the Service, such Indian Tribe or Tribal Organization, or such Urban Indian Organization, respectively, and may be used as provided in section 401. In the case of such a service provided by or through a Service Unit, such amounts shall be credited to such unit and used for such purposes.

''(2) PROGRAMS COVERED.—The programs referred to in paragraph (1) are the following:

''(A) Titles XVIII, XIX, and XXI of the Social Security Act.

''(B) This Act, including section 807.

''(C) Public Law 87–693.

''(D) Any other provision of law.

''(b) NO OFFSET OF AMOUNTS.—The Service may not offset or limit any amount obligated to any Service Unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

''SEC. 405. PURCHASING HEALTH CARE COVERAGE.

''(a) IN GENERAL.—Insofar as amounts are made available under law (including a provision of the Social Security Act, the Indian Self-Determination and Education Assistance Act, or other law, other than under section 402) to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for health benefits for Service beneficiaries, Indian Tribes, Tribal Organizations, and Urban Indian Organizations may use such amounts to purchase health benefits coverage for such beneficiaries in any manner, including through—

''(1) a tribally owned and operated health care plan;

''(2) a State or locally authorized or licensed health care plan;

''(3) a health insurance provider or managed care organization; or

''(4) a self-insured plan.

The purchase of such coverage by an Indian Tribe, Tribal Organization, or Urban Indian Organization may be based on the financial needs of such beneficiaries (as determined by the Indian Tribe or Tribes being served based on a schedule of income levels developed or implemented by such Indian Tribe or Tribes).

''(b) EXPENSES FOR SELF-INSURED PLAN.—In the case of a self-insured plan under subsection (a)(4), the amounts may be used for expenses of operating the plan, including administration and insurance to limit the financial risks to the entity offering the plan.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as affecting the use of any amounts not referred to in subsection (a).

''SEC. 406. SHARING ARRANGEMENTS WITH FEDERAL AGENCIES.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary may enter into (or expand) arrangements for the sharing of medical facilities and services between the Service, Indian Tribes, and Tribal Organizations and the Department of Veterans Affairs and the Department of Defense.

''(2) CONSULTATION BY SECRETARY REQUIRED.—The Secretary may not finalize any arrangement between the Service and a Department described in paragraph (1) without first consulting with the Indian Tribes which will be significantly affected by the arrangement.

''(b) LIMITATIONS.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

''(1) the priority access of any Indian to health care services provided through the Service and the eligibility of any Indian to receive health services through the Service;

''(2) the quality of health care services provided to any Indian through the Service;

''(3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;

''(4) the quality of health care services provided by the Department of Veterans Affairs or the Department of Defense; or

''(5) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

''(c) REIMBURSEMENT.—The Service, Indian Tribe, or Tribal Organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian Tribe, or a Tribal Organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law.

''(d) CONSTRUCTION.—Nothing in this section may be construed as creating any right of a non-Indian veteran to obtain health services from the Service.

''SEC. 407. PAYOR OF LAST RESORT.

''Indian Health Programs and health care programs operated by Urban Indian Organizations shall be the payor of last resort for services provided to persons eligible for services from Indian Health Programs and Urban Indian Organizations, notwithstanding any Federal, State, or local law to the contrary.

''SEC. 408. NONDISCRIMINATION IN QUALIFICATIONS FOR REIMBURSEMENT FOR SERVICES.

''For purposes of determining the eligibility of an entity that is operated by the Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization to receive payment or reimbursement from any federally funded health care program for health care services it furnishes to an Indian. Such program must provide that such entity, meeting generally applicable State or other requirements applicable for participation, must be accepted as a provider on the same basis as any other qualified provider, except that any requirement that the entity be licensed or recognized under State or local law to furnish such services shall be deemed to have been met if the entity meets all the applicable standards for such licensure, but the entity need not obtain a license or other documentation. In determining whether the entity meets such standards, the absence of licensure of any staff member of the entity may not be taken into account.

''SEC. 409. CONSULTATION.

''(a) TRIBAL TECHNICAL ADVISORY GROUP (TTAG).—The Secretary shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group, established in accordance with requirements of the charter dated September 30, 2003, and in such group shall include a representative of the Urban Indian Organizations and the Service. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 204(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).

''(b) SOLICITATION OF MEDICAID ADVICE.—

''(1) IN GENERAL.—As part of its plan under title XIX of the Social Security Act, a State in which the Service operates or funds health care programs, or in which 1 or more Indian Health Programs or Urban Indian Organizations provide health care in the State for

which medical assistance is available under such title, may establish a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of such title to and likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations.

''(2) MANNER OF ADVICE.—The process described in paragraph (1) should include solicitation of advice prior to submission of any plan amendments, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations. Such process may include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its medicaid plan.

''(3) PAYMENT OF EXPENSES.—The reasonable expenses of carrying out this subsection shall be eligible for reimbursement under section 1903(a) of the Social Security Act.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

''SEC. 410. STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP).

''(a) OPTIONAL USE OF FUNDS FOR INDIAN HEALTH PROGRAM PAYMENTS.—Subject to the succeeding provisions of this section, a State may provide under its State child health plan under title XXI of the Social Security Act (regardless of whether such plan is implemented under such title, title XIX of such Act, or both) for payments under this section to Indian Health Programs and Urban Indian Organizations operating in the State. Such payments shall be treated under title XXI of the Social Security Act as expenditures described in section 2105(a)(1)(A) of such Act.

''(b) USE OF FUNDS.—Payments under this section may be used only for expenditures described in clauses (i) through (iii) of section 2105(a)(1)(D) of the Social Security Act for targeted low-income children or other low-income children (as defined in 2110 of such Act) who are—

''(1) Indians; or

''(2) otherwise eligible for health services from the Indian Health Program involved.

''(c) SPECIAL RESTRICTIONS.—The following conditions apply to a State electing to provide payments under this section:

''(1) NO LIMITATION ON OTHER SCHIP PARTICIPATION OF, OR PROVIDER PAYMENTS TO, INDIAN HEALTH PROGRAMS.—The State may not exclude or limit participation of otherwise eligible Indian Health Programs in its State child health program under title XXI of the Social Security Act or its medicaid program under title XIX of such Act or pay such Programs less than they otherwise would as participating providers on the basis that payments are made to such Programs under this section.

''(2) NO LIMITATION ON OTHER SCHIP ELIGIBILITY OF INDIANS.—The State may not exclude or limit participation of otherwise eligible Indian children in such State child health or medicaid program on the basis that payments are made for assistance for such children under this section.

''(3) LIMITATION ON ACCEPTANCE OF CONTRIBUTIONS.—

''(A) IN GENERAL.—The State may not accept contributions or condition making of payments under this section upon contribution of funds from any Indian Health Program to meet the State's non-Federal matching fund requirements under titles XIX and XXI of the Social Security Act.

''(B) CONTRIBUTION DEFINED.—For purposes of subparagraph (A), the term 'contribution' includes any tax, donation, fee, or other payment made, whether made voluntarily or involuntarily.

''(d) APPLICATION OF SEPARATE 10 PERCENT LIMITATION.—Payment may be made under section 2105(a) of the Social Security Act to a State for a fiscal year for payments under this section up to an amount equal to 10 percent of the total amount available under title XXI of such Act (including allotments and reallotments available from previous fiscal years) to the State with respect to the fiscal year.

''(e) GENERAL TERMS.—A payment under this section shall only be made upon application to the State from the Indian Health Program involved and under such terms and conditions, and in a form and manner, as the Secretary determines appropriate.

''SEC. 411. SOCIAL SECURITY ACT SANCTIONS.

''(a) REQUESTS FOR WAIVER OF SANCTIONS.—

''(1) IN GENERAL.—For purposes of applying any authority under a provision of title XI, XVIII, XIX, or XXI of the Social Security Act to seek a waiver of a sanction imposed against a health care provider insofar as that provider provides services to individuals through an Indian Health Program, the Indian Health Program shall request the State to seek such waiver, and if such State has not sought the waiver within 60 days of the Indian Health Program request, the Indian Health Program itself may petition the Secretary for such waiver.

''(2) PROCEDURE.—In seeking a waiver under paragraph (1), the Indian Health Program must provide notice and a copy of the request, including the reasons for the waiver sought, to the State. The Secretary may consider the State's views in the determination of the waiver request, but may not withhold or delay a determination based on the lack of the State's views.

''(b) SAFE HARBOR FOR TRANSACTIONS BETWEEN AND AMONG INDIAN HEALTH CARE PROGRAMS.—For purposes of applying section 1128B(b) of the Social Security Act, the exchange of anything of value between or among the following shall not be treated as remuneration if the exchange arises from or relates to any of the following health programs:

''(1) An exchange between or among the following:

''(A) Any Indian Health Program.

''(B) Any Urban Indian Organization.

''(2) An exchange between an Indian Tribe, Tribal Organization, or an Urban Indian Organization and any patient served or eligible for service from an Indian Tribe, Tribal Organization, or Urban Indian Organization, including patients served or eligible for service pursuant to section 807, but only if such exchange—

''(A) is for the purpose of transporting the patient for the provision of health care items or services;

''(B) is for the purpose of providing housing to the patient (including a pregnant patient) and immediate family members or an escort incidental to assuring the timely provision of health care items and services to the patient;

''(C) is for the purpose of paying premiums, copayments, deductibles, or other cost-sharing on behalf of patients; or

''(D) consists of an item or service of small value that is provided as a reasonable incentive to secure timely and necessary preventive and other items and services.

''(3) Other exchanges involving an Indian Health Program, an Urban Indian Organization, or an Indian Tribe or Tribal Organization that meet such standards as the Secretary of Health and Human Services, in consultation with the Attorney General, determines is appropriate, taking into account the special circumstances of such Indian Health Programs, Urban Indian Organizations, Indian Tribes, and Tribal Organizations and of patients served by Indian Health Programs, Urban Indian Organizations, Indian Tribes, and Tribal Organizations.

''SEC. 412. COST SHARING.

''(a) COINSURANCE, COPAYMENTS, AND DEDUCTIBLES.—Notwithstanding any other provision of Federal or State law—

''(1) PROTECTION FOR ELIGIBLE INDIANS UNDER SOCIAL SECURITY ACT HEALTH PROGRAMS.—No Indian who is furnished an item or service for which payment may be made under title XIX or XXI of the Social Security Act may be charged a deductible, copayment, or coinsurance.

''(2) PROTECTION FOR INDIANS.—No Indian who is furnished an item or service by the Service may be charged a deductible, copayment, or coinsurance.

''(3) NO REDUCTION IN AMOUNT OF PAYMENT TO INDIAN HEALTH PROVIDERS.—The payment or reimbursement due to the Service, Indian Tribe, Tribal Organization, or Urban Indian Organization under title XIX or XXI of the Social Security Act may not be reduced by the amount of the deductible, copayment, or coinsurance that would be due from the Indian but for the operation of this section.

''(b) EXEMPTION FROM MEDICAID AND SCHIP PREMIUMS.—Notwithstanding any other provision of Federal or State law, no Indian who is otherwise eligible for services under title XIX of the Social Security Act (relating to the medicaid program) or title XXI of such Act (relating to the State children's health insurance program) may be charged a premium, enrollment fee, or similar charge as a condition of receiving benefits under the program under the respective title.

''(c) TREATMENT OF CERTAIN PROPERTY FOR MEDICAID ELIGIBILITY.—Notwithstanding any other provision of Federal or State law, the following property may not be included when determining eligibility for services under title XIX of the Social Security Act:

''(1) Property, including real property and improvements, located on a reservation, including any federally recognized Indian Tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

''(2) For any federally recognized Tribe not described in paragraph (1), property located within the most recent boundaries of a prior Federal reservation.

''(3) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

''(4) Ownership interests in or usage rights to items not covered by paragraphs (1) through (3) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional life style according to applicable tribal law or custom.

''(d) CONTINUATION OF CURRENT LAW PROTECTIONS OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.—Income, resources, and property that are exempt from medicaid estate recovery under title XIX of the Social Security Act as of April 1, 2003, under manual instructions issued to carry out section 1917(b)(3) of such Act because of Federal responsibility for Indian Tribes and

Alaska Native Villages shall remain so exempt. Nothing in this subsection shall be construed as preventing the Secretary from providing additional medicaid estate recovery exemptions for Indians.

"SEC. 413. TREATMENT UNDER MEDICAID MANAGED CARE.

''(a) PROVISION OF SERVICES, TO ENROLLEES WITH NON-INDIAN MEDICAID MANAGED CARE ENTITIES, BY INDIAN HEALTH PROGRAMS AND URBAN INDIAN ORGANIZATIONS.—

''(1) PAYMENT RULES.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of an Indian who is enrolled with a non-Indian medicaid managed care entity (as defined in subsection (c)) and who receives covered medicaid managed care services from an Indian Health Program or an Urban Indian Organization, whether or not it is a participating provider with respect to such entity, the following rules apply:

''(i) DIRECT PAYMENT.—The entity shall make prompt payment (in accordance with rules applicable to medicaid managed care entities under title XIX of the Social Security Act) to the Indian Health Program or Urban Indian Organization at a rate established by the entity for such services that is equal to the rate negotiated between such entity and the Program or Organization involved or, if such a rate has not been negotiated, a rate that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a provider which is not such a Program or Organization.

''(ii) PAYMENT THROUGH STATE.—If there is no arrangement for direct payment under clause (i) or if a State provides for this clause to apply in lieu of clause (i), the State shall provide for payment to the Indian Health Program or Urban Indian Organization under its State program under title XIX of such Act at the rate that would be otherwise applicable for such services under such program and shall provide for an appropriate adjustment of the capitation payment made to the entity to take into account such payment.

''(B) COMPLIANCE WITH GENERALLY APPLICABLE REQUIREMENTS.—

''(i) IN GENERAL.—Except as otherwise provided, as a condition of payment under subparagraph (A), the Indian Health Program or Urban Indian Organization shall comply with the generally applicable requirements of title XIX of the Social Security Act with respect to covered services.

''(ii) SATISFACTION OF CLAIM REQUIREMENT.—Any requirement for the submission of a claim or other documentation for services covered under subparagraph (A) by the enrollee is deemed to be satisfied through the submission of a claim or other documentation by the Indian Health Program or Urban Indian Organization consistent with section 403(h).

''(C) CONSTRUCTION.—Nothing in this subsection shall be construed as waiving the application of section 1902(a)(30)(A) of the Social Security Act (relating to application of standards to assure that payments are consistent with efficiency, economy, and quality of care).

''(2) ENROLLEE OPTION TO SELECT AN INDIAN HEALTH PROGRAM OR URBAN INDIAN ORGANIZATION AS PRIMARY CARE PROVIDER.—In the case of a non-Indian medicaid managed care entity that—

''(A) has an Indian enrolled with the entity; and

''(B) has an Indian Health Program or Urban Indian Organization that is participating as a primary care provider within the network of the entity,

insofar as the Indian is otherwise eligible to receive services from such Program or Organization and the Program or Organization has the capacity to provide primary care services to such Indian, the Indian shall be allowed to choose such Program or Organization as the Indian's primary care provider under the entity.

''(b) OFFERING OF MANAGED CARE THROUGH INDIAN MEDICAID MANAGED CARE ENTITIES.—If—

''(1) a State elects to provide services through medicaid managed care entities under its medicaid managed care program; and

''(2) an Indian Health Program or Urban Indian Organization that is funded in whole or in part by the Service, or a consortium thereof, has established an Indian medicaid managed care entity in the State that meets generally applicable standards required of such an entity under such medicaid managed care program,

the State shall offer to enter into an agreement with the entity to serve as a medicaid managed care entity with respect to eligible Indians served by such entity under such program.

''(c) SPECIAL RULES FOR INDIAN MANAGED CARE ENTITIES.—The following are special rules regarding the application of a medicaid managed care program to Indian medicaid managed care entities:

''(1) ENROLLMENT.—

''(A) LIMITATION TO INDIANS.—An Indian medicaid managed care entity may restrict enrollment under such program to Indians and to members of specific Tribes in the same manner as Indian Health Programs may restrict the delivery of services to such Indians and tribal members.

''(B) NO LESS CHOICE OF PLANS.—Under such program the State may not limit the choice of an Indian among medicaid managed care entities only to Indian medicaid managed care entities or to be more restrictive than the choice of managed care entities offered to individuals who are not Indians.

''(C) DEFAULT ENROLLMENT.—

''(i) IN GENERAL.—If such program of a State requires the enrollment of Indians in a medicaid managed care entity in order to receive benefits, the State shall provide for the enrollment of Indians described in clause (ii) who are not otherwise enrolled with such an entity in an Indian medicaid managed care entity described in such clause.

''(ii) INDIAN DESCRIBED.—An Indian described in this clause, with respect to an Indian medicaid managed care entity, is an Indian who, based upon the service area and capacity of the entity, is eligible to be enrolled with the entity consistent with subparagraph (A).

''(D) EXCEPTION TO STATE LOCK-IN.—A request by an Indian who is enrolled under such program with a non-Indian medicaid managed care entity to change enrollment with that entity to enrollment with an Indian medicaid managed care entity shall be considered cause for granting such request under procedures specified by the Secretary.

''(2) FLEXIBILITY IN APPLICATION OF SOLVENCY.—In applying section 1903(m)(1) of the Social Security Act to an Indian medicaid managed care entity—

''(A) any reference to a 'State' in subparagraph (A)(ii) of that section shall be deemed to be a reference to the 'Secretary'; and

''(B) the entity shall be deemed to be a public entity described in subparagraph (C)(ii) of that section.

''(3) EXCEPTIONS TO ADVANCE DIRECTIVES.—The Secretary may modify or waive the requirements of section 1902(w) of the Social Security Act (relating to provision of written materials on advance directives) insofar as the Secretary finds that the requirements otherwise imposed are not an appropriate or effective way of communicating the information to Indians.

''(4) FLEXIBILITY IN INFORMATION AND MARKETING.—

''(A) MATERIALS.—The Secretary may modify requirements under section 1932(a)(5) of the Social Security Act in a manner that improves the materials to take into account the special circumstances of such entities and their enrollees while maintaining and clearly communicating to potential enrollees their rights, protections, and benefits.

''(B) DISTRIBUTION OF MARKETING MATERIALS.—The provisions of section 1932(d)(2)(B) of the Social Security Act requiring the distribution of marketing materials to an entire service area shall be deemed satisfied in the case of an Indian medicaid managed care entity that distributes appropriate materials only to those Indians who are potentially eligible to enroll with the entity in the service area.

''(d) MALPRACTICE INSURANCE.—Insofar as, under a medicaid managed care program, a health care provider is required to have medical malpractice insurance coverage as a condition of contracting as a provider with a medicaid managed care entity, an Indian Health Program, or an Urban Indian Organization that is a Federally-qualified health center under title XIX of the Social Security Act, that is covered under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.) is deemed to satisfy such requirement.

''(e) DEFINITIONS.—For purposes of this section:

''(1) MEDICAID MANAGED CARE ENTITY.—The term 'medicaid managed care entity' means a managed care entity (whether a managed care organization or a primary care case manager) under title XIX of the Social Security Act, whether pursuant to section 1903(m) or section 1932 of such Act, a waiver under section 1115 or 1915(b) of such Act, or otherwise.

''(2) INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'Indian medicaid managed care entity' means a managed care entity that is controlled (within the meaning of the last sentence of section 1903(m)(1)(C) of the Social Security Act) by the Indian Health Service, a Tribe, Tribal Organization, or Urban Indian Organization (as such terms are defined in section 4), or a consortium, which may be composed of 1 or more Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Service.

''(3) NON-INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'non-Indian medicaid managed care entity' means a medicaid managed care entity that is not an Indian medicaid managed care entity.

''(4) COVERED MEDICAID MANAGED CARE SERVICES.—The term 'covered medicaid managed care services' means, with respect to an individual enrolled with a medicaid managed care entity, items and services that are within the scope of items and services for which benefits are available with respect to the individual under the contract between the entity and the State involved.

''(5) MEDICAID MANAGED CARE PROGRAM.—The term 'medicaid managed care program' means a program under sections 1903(m) and 1932 of the Social Security Act and includes a managed care program operating under a waiver under section 1915(b) or 1115 of such Act or otherwise.

"SEC. 414. NAVAJO NATION MEDICAID AGENCY FEASIBILITY STUDY.

''(a) STUDY.—The Secretary shall conduct a study to determine the feasibility of treating the Navajo Nation as a State for the purposes of title XIX of the Social Security Act, to provide services to Indians living within the boundaries of the Navajo Nation through

an entity established having the same authority and performing the same functions as single-State medicaid agencies responsible for the administration of the State plan under title XIX of the Social Security Act.

''(b) CONSIDERATIONS.—In conducting the study, the Secretary shall consider the feasibility of—

''(1) assigning and paying all expenditures for the provision of services and related administration funds, under title XIX of the Social Security Act, to Indians living within the boundaries of the Navajo Nation that are currently paid to or would otherwise be paid to the State of Arizona, New Mexico, or Utah;

''(2) providing assistance to the Navajo Nation in the development and implementation of such entity for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act;

''(3) providing an appropriate level of matching funds for Federal medical assistance with respect to amounts such entity expends for medical assistance for services and related administrative costs; and

''(4) authorizing the Secretary, at the option of the Navajo Nation, to treat the Navajo Nation as a State for the purposes of title XIX of the Social Security Act (relating to the State children's health insurance program) under terms equivalent to those described in paragraphs (2) through (4).

''(c) REPORT.—Not later then 3 years after the date of enactment of the Indian Health Act Improvement Act Amendments of 2005, the Secretary shall submit to the Committee of Indian Affairs and Committee on Finance of the Senate and the Committee on Resources and Committee on Ways and Means of the House of Representatives a report that includes—

''(1) the results of the study under this section;

''(2) a summary of any consultation that occurred between the Secretary and the Navajo Nation, other Indian Tribes, the States of Arizona, New Mexico, and Utah, counties which include Navajo Lands, and other interested parties, in conducting this study;

''(3) projected costs or savings associated with establishment of such entity, and any estimated impact on services provided as described in this section in relation to probable costs or savings; and

''(4) legislative actions that would be required to authorize the establishment of such entity if such entity is determined by the Secretary to be feasible.

''SEC. 415. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''SEC. 501. PURPOSE.

''The purpose of this title is to establish and maintain programs in Urban Centers to make health services more accessible and available to Urban Indians.

''SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

''Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall enter into contracts with, or make grants to, Urban Indian Organizations to assist such organizations in the establishment and administration, within Urban Centers, of programs which meet the requirements set forth in this title. Subject to section 506, the Secretary, acting through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract into which the Secretary enters with, or in any grant the Secretary makes to, any Urban Indian Organization pursuant to this title.

''SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

''(a) REQUIREMENTS FOR GRANTS AND CONTRACTS.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, Urban Indian Organizations for the provision of health care and referral services for Urban Indians. Any such contract or grant shall include requirements that the Urban Indian Organization successfully undertake to—

''(1) estimate the population of Urban Indians residing in the Urban Center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

''(2) estimate the current health status of Urban Indians residing in such Urban Center or centers;

''(3) estimate the current health care needs of Urban Indians residing in such Urban Center or centers;

''(4) provide basic health education, including health promotion and disease prevention education, to Urban Indians;

''(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of Urban Indians; and

''(6) where necessary, provide, or enter into contracts for the provision of, health care services for Urban Indians.

''(b) CRITERIA.—The Secretary, acting through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting Urban Indian Organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

''(1) the extent of unmet health care needs of Urban Indians in the Urban Center or centers involved;

''(2) the size of the Urban Indian population in the Urban Center or centers involved;

''(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title;

''(4) the capability of an Urban Indian Organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

''(5) the satisfactory performance and successful completion by an Urban Indian Organization of other contracts with the Secretary under this title;

''(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an Urban Center or centers; and

''(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

''(c) ACCESS TO HEALTH PROMOTION AND DISEASE PREVENTION PROGRAMS.—The Secretary, acting through the Service, shall facilitate access to or provide health promotion and disease prevention services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a).

''(d) IMMUNIZATION SERVICES.—

''(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under this section.

''(2) DEFINITION.—For purposes of this subsection, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

''(e) BEHAVIORAL HEALTH SERVICES.—

''(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to, or provide, behavioral health services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a).

''(2) ASSESSMENT REQUIRED.—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an Urban Indian Organization until that organization has prepared, and the Service has approved, an assessment of the following:

''(A) The behavioral health needs of the Urban Indian population concerned.

''(B) The behavioral health services and other related resources available to that population.

''(C) The barriers to obtaining those services and resources.

''(D) The needs that are unmet by such services and resources.

''(3) PURPOSES OF GRANTS.—Grants may be made under this subsection for the following:

''(A) To prepare assessments required under paragraph (2).

''(B) To provide outreach, educational, and referral services to Urban Indians regarding the availability of direct behavioral health services, to educate Urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to Urban Indians.

''(C) To provide outpatient behavioral health services to Urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment.

''(D) To develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

''(f) PREVENTION OF CHILD ABUSE.—

''(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to or provide services for Urban Indians through grants to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among Urban Indians.

''(2) EVALUATION REQUIRED.—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an Urban Indian Organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the Urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

''(3) PURPOSES OF GRANTS.—Grants may be made under this subsection for the following:

''(A) To prepare assessments required under paragraph (2).

''(B) For the development of prevention, training, and education programs for Urban Indians, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection.

''(C) To provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to Urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to Urban Indian perpetrators of child abuse (including sexual abuse).

''(4) CONSIDERATIONS WHEN MAKING GRANTS.—In making grants to carry out this subsection, the Secretary shall take into consideration—

''(A) the support for the Urban Indian Organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

''(B) the capability and expertise demonstrated by the Urban Indian Organization to address the complex problem of child sexual abuse in the community; and

''(C) the assessment required under paragraph (2).

''(g) OTHER GRANTS.—The Secretary, acting through the Service, may enter into a contract with or make grants to an Urban Indian Organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to Urban Indians in more than 1 Urban Center.

''SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

''(a) GRANTS AND CONTRACTS AUTHORIZED.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, may enter into contracts with or make grants to Urban Indian Organizations situated in Urban Centers for which contracts have not been entered into or grants have not been made under section 503.

''(b) PURPOSE.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (c)(1) in order to assist the Secretary in assessing the health status and health care needs of Urban Indians in the Urban Center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the Urban Indian Organization which the Secretary has entered into a contract with, or made a grant to, under this section.

''(c) GRANT AND CONTRACT REQUIREMENTS.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

''(1) the Urban Indian Organization successfully undertakes to—

''(A) document the health care status and unmet health care needs of Urban Indians in the Urban Center involved; and

''(B) with respect to Urban Indians in the Urban Center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

''(2) the Urban Indian Organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

''(d) NO RENEWALS.—The Secretary may not renew any contract entered into or grant made under this section.

''SEC. 505. EVALUATIONS; RENEWALS.

''(a) PROCEDURES FOR EVALUATIONS.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements and compliance with and performance of contracts entered into by Urban Indian Organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

''(b) EVALUATIONS.—The Secretary, acting through the Service, shall evaluate the compliance of each Urban Indian Organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of this evaluation, in determining the capacity of an Urban Indian Organization to deliver quality patient care the Secretary shall, at the option of the organization—

''(1) acting through the Service, conduct an annual onsite evaluation of the organization; or

''(2) accept in lieu of such onsite evaluation evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the Medicare program under title XVIII of the Social Security Act.

''(c) NONCOMPLIANCE; UNSATISFACTORY PERFORMANCE.—If, as a result of the evaluations conducted under this section, the Secretary determines that an Urban Indian Organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with the organization the areas of noncompliance or unsatisfactory performance and modify the contract or grant to prevent future occurrences of noncompliance or unsatisfactory performance. If the Secretary determines that the noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew the contract or grant with the organization and is authorized to enter into a contract or make a grant under section 503 with another Urban Indian Organization which is situated in the same Urban Center as the Urban Indian Organization whose contract or grant is not renewed under this section.

''(d) CONSIDERATIONS FOR RENEWALS.—In determining whether to renew a contract or grant with an Urban Indian Organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the Urban Indian Organization, the reports submitted under section 507, and shall consider the results of the onsite evaluations or accreditations under subsection (b).

''SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

''(a) PROCUREMENT.—Contracts with Urban Indian Organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of sections 1304 and 3131 through 3133 of title 40, United States Code.

''(b) PAYMENTS UNDER CONTRACTS OR GRANTS.—Payments under any contracts or grants pursuant to this title shall, notwithstanding any term or condition of such contract or grant—

''(1) be made in their entirety by the Secretary to the Urban Indian Organization by no later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and

''(2) if any portion thereof is unexpended by the Urban Indian Organization during the funding period with respect to which the payments initially apply, shall be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the availability for expenditure of such funds.

''(c) REVISION OR AMENDMENT OF CONTRACTS.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request and consent of an Urban Indian Organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

''(d) FAIR AND UNIFORM SERVICES AND ASSISTANCE.—Contracts with or grants to Urban Indian Organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to Urban Indians of services and assistance under such contracts or grants by such organizations.

''SEC. 507. REPORTS AND RECORDS.

''(a) REPORTS.—For each fiscal year during which an Urban Indian Organization receives or expends funds pursuant to a contract entered into or a grant received pursuant to this title, such Urban Indian Organization shall submit to the Secretary not more frequently than every 6 months, a report that includes the following:

''(1) In the case of a contract or grant under section 503, recommendations pursuant to section 503(a)(5).

''(2) Information on activities conducted by the organization pursuant to the contract or grant.

''(3) An accounting of the amounts and purpose for which Federal funds were expended.

''(4) A minimum set of data, using uniformly defined elements, as specified by the Secretary after consultation with Urban Indian Organizations.

''(b) AUDIT.—The reports and records of the Urban Indian Organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

''(c) COSTS OF AUDITS.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

''(1) a certified public accountant; or

''(2) a certified public accounting firm qualified to conduct Federal compliance audits.

''SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

''The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

''SEC. 509. FACILITIES.

''(a) GRANTS.—The Secretary, acting through the Service, may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

''(b) LOAN FUND STUDY.—The Secretary, acting through the Services, may carry out a study to determine the feasibility of establishing a loan fund to provide to Urban Indian Organizations direct loans or guarantees for loans for the construction of health care facilities in a manner consistent with section 309.

"SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

''There is established within the Service an Office of Urban Indian Health, which shall be responsible for—

''(1) carrying out the provisions of this title;

''(2) providing central oversight of the programs and services authorized under this title; and

''(3) providing technical assistance to Urban Indian Organizations.

"SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE-RELATED SERVICES.

''(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school- and community-based education regarding, alcohol and substance abuse in Urban Centers to those Urban Indian Organizations with which the Secretary has entered into a contract under this title or under section 201.

''(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the following:

''(1) The size of the Urban Indian population.

''(2) Capability of the organization to adequately perform the activities required under the grant.

''(3) Satisfactory performance standards for the organization in meeting the goals set forth in such grant. The standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis.

''(4) Identification of the need for services.

''(d) ALLOCATION OF GRANTS.—The Secretary shall develop a methodology for allocating grants made pursuant to this section based on the criteria established pursuant to subsection (c).

''(e) GRANTS SUBJECT TO CRITERIA.—Any funds received by an Urban Indian Organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

"SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

''Notwithstanding any other provision of law, the Tulsa Clinic and Oklahoma City Clinic demonstration projects shall—

''(1) be permanent programs within the Service's direct care program;

''(2) continue to be treated as Service Units in the allocation of resources and coordination of care; and

''(3) continue to meet the requirements and definitions of an urban Indian organization in this Act, and shall not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

"SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

''(a) GRANTS AND CONTRACTS.—The Secretary, through the Office of Urban Indian Health, shall make grants or enter into contracts with Urban Indian Organizations for the administration of Urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as 'NIAAA') and transferred to the Service. Such grants and contracts shall become effective no later than September 30, 2008.

''(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for Urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

''(c) ELIGIBILITY.—Urban Indian Organizations that operate Indian alcohol programs originally funded under the NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

''(d) REPORT.—The Secretary shall evaluate and report to Congress on the activities of programs funded under this section not less than every 5 years.

"SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall ensure that the Service consults, to the greatest extent practicable, with Urban Indian Organizations.

''(b) DEFINITION OF CONSULTATION.—For purposes of subsection (a), consultation is the open and free exchange of information and opinions which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

"SEC. 515. FEDERAL TORT CLAIM ACT COVERAGE.

''(a) IN GENERAL.—With respect to claims resulting from the performance of functions during fiscal year 2005 and thereafter, or claims asserted after September 30, 2004, but resulting from the performance of functions prior to fiscal year 2005, under a contract, grant agreement, or any other agreement authorized under this title, an Urban Indian Organization is deemed hereafter to be part of the Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement. After September 30, 2003, any civil action or proceeding involving such claims brought hereafter against any Urban Indian Organization or any employee of such Urban Indian Organization covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.). Future coverage under that Act shall be contingent on cooperation of the Urban Indian Organization with the Attorney General in prosecuting past claims.

''(b) CLAIMS RESULTING FROM PERFORMANCE OF CONTRACT OR GRANT.—Beginning for fiscal year 2005 and thereafter, the Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions.

"SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

''(a) CONSTRUCTION AND OPERATION.—The Secretary, acting through the Service, through grant or contract, is authorized to fund the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to Urban Indian youth in a culturally competent residential setting.

''(b) DEFINITION OF STATE.—A State described in this subsection is a State in which—

''(1) there resides Urban Indian youth with need for alcohol and substance abuse treatment services in a residential setting; and

''(2) there is a significant shortage of culturally competent residential treatment services for Urban Indian youth.

"SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

''(a) AUTHORIZATION FOR USE.—The Secretary, acting through the Service, shall allow an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

''(b) DONATIONS.—Subject to subsection (d), the Secretary may donate to an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

''(c) ACQUISITION OF PROPERTY FOR DONATION.—The Secretary may acquire excess or surplus government personal or real property for donation (subject to subsection (d)), to an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the Urban Indian Organization for a purpose for which a contract or grant is authorized under this title.

''(d) PRIORITY.—In the event that the Secretary receives a request for donation of a specific item of personal or real property described in subsection (b) or (c) from both an Urban Indian Organization and from an Indian Tribe or Tribal Organization, the Secretary shall give priority to the request for donation of the Indian Tribe or Tribal Organization if the Secretary receives the request from the Indian Tribe or Tribal Organization before the date the Secretary transfers title to the property or, if earlier, the date the Secretary transfers the property physically to the Urban Indian Organization.

''(e) URBAN INDIAN ORGANIZATIONS DEEMED EXECUTIVE AGENCY FOR CERTAIN PURPOSES.—For purposes of section 501 of title 40, United States Code, (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant.

"SEC. 518. GRANTS FOR DIABETES PREVENTION, TREATMENT, AND CONTROL.

''(a) GRANTS AUTHORIZED.—The Secretary may make grants to those Urban Indian Organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention and treatment of, and control of the complications resulting from, diabetes among Urban Indians.

''(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

''(c) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a) relating to—

''(1) the size and location of the Urban Indian population to be served;

''(2) the need for prevention of and treatment of, and control of the complications resulting from, diabetes among the Urban Indian population to be served;

''(3) performance standards for the organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

''(4) the capability of the organization to adequately perform the activities required under the grant; and

''(5) the willingness of the organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the Area Office of the Service in which the organization is located.

''(d) FUNDS SUBJECT TO CRITERIA.—Any funds received by an Urban Indian Organization under this Act for the prevention, treatment, and control of diabetes among Urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

''SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

''The Secretary, acting through the Service, may enter into contracts with, and make grants to, Urban Indian Organizations for the employment of Indians trained as health service providers through the Community Health Representatives Program under section 109 in the provision of health care, health promotion, and disease prevention services to Urban Indians.

''SEC. 520. REGULATIONS.

''(a) REQUIREMENTS FOR REGULATIONS.—The Secretary may promulgate regulations to implement the provisions of this title in accordance with the following:

''(1) Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 9 months after the date of enactment of this Act and shall have no less than a 4-month comment period.

''(2) The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

''(b) EFFECTIVE DATE OF TITLE.—The amendments to this title made by the Indian Health Care Improvement Act Amendments of 2005 shall be effective on the date of enactment of such amendments, regardless of whether the Secretary has promulgated regulations implementing such amendments have been promulgated.

''SEC. 521. ELIGIBILITY FOR SERVICES.

''Urban Indians shall be eligible and the ultimate beneficiaries for health care or referral services provided pursuant to this title.

''SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VI—ORGANIZATIONAL IMPROVEMENTS

''SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian Tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

''(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistant Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2005, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

''(3) INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 shall serve as Assistant Secretary.

''(4) ADVOCACY AND CONSULTATION.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian Tribes—

''(A) facilitate advocacy for the development of appropriate Indian health policy; and

''(B) promote consultation on matters relating to Indian health.

''(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

''(c) DUTIES.—The Assistant Secretary of Indian Health shall—

''(1) perform all functions that were, on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, carried out by or under the direction of the individual serving as Director of the Service on that day;

''(2) perform all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

''(3) administer all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

''(A) this Act;

''(B) the Act of November 2, 1921 (25 U.S.C. 13);

''(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);

''(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

''(E) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

''(4) administer all scholarship and loan functions carried out under title I;

''(5) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

''(6) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

''(7) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

''(8) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

''(9) coordinate the activities of the Department concerning matters of Indian health; and

''(10) perform such other functions as the Secretary may designate.

''(d) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority—

''(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

''(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

''(C) to manage, expend, and obligate all funds appropriated for the Service.

''(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

''(e) REFERENCES.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Director of the Indian Health Service, shall be deemed to refer to the Assistant Secretary.

''SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish an automated management information system for the Service.

''(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

''(A) a financial management system;

''(B) a patient care information system for each area served by the Service;

''(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service;

''(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each Area office of the Service;

''(E) an interface mechanism for patient billing and accounts receivable system; and

''(F) a training component.

''(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Tribal Health Program automated management information systems which—

''(1) meet the management information needs of such Tribal Health Program with respect to the treatment by the Tribal Health Program of patients of the Service; and

''(2) meet the management information needs of the Service.

''(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

''(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements, or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

''SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VII—BEHAVIORAL HEALTH PROGRAMS

''SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

''(a) PURPOSES.—The purposes of this section are as follows:

''(1) To authorize and direct the Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs.

''(2) To provide information, direction, and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education,

social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services.

''(3) To assist Indian Tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior.

''(4) To provide authority and opportunities for Indian Tribes and Tribal Organizations to develop, implement, and coordinate with community-based programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams.

''(5) To ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access.

''(6) To modify or supplement existing programs and authorities in the areas identified in paragraph (2).

''(b) PLANS.—

''(1) DEVELOPMENT.—The Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall encourage Indian Tribes and Tribal Organizations to develop tribal plans, and Urban Indian Organizations to develop local plans, and for all such groups to participate in developing areawide plans for Indian Behavioral Health Services. The plans shall include, to the extent feasible, the following components:

''(A) An assessment of the scope of alcohol or other substance abuse, mental illness, and dysfunctional and self-destructive behavior, including suicide, child abuse, and family violence, among Indians, including—

''(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; or

''(ii) an estimate of the financial and human cost attributable to such illness or behavior.

''(B) An assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c).

''(C) An estimate of the additional funding needed by the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to meet their responsibilities under the plans.

''(2) NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Service, shall establish a national clearinghouse of plans and reports on the outcomes of such plans developed by Indian Tribes, Tribal Organizations, Urban Indian Organizations, and Service Areas relating to behavioral health. The Secretary shall ensure access to these plans and outcomes by any Indian Tribe, Tribal Organization, Urban Indian Organization, or the Service.

''(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in preparation of plans under this section and in developing standards of care that may be used and adopted locally.

''(c) PROGRAMS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide, to the extent feasible and if funding is available, programs including the following:

''(1) COMPREHENSIVE CARE.—A comprehensive continuum of behavioral health care which provides—

''(A) community-based prevention, intervention, outpatient, and behavioral health aftercare;

''(B) detoxification (social and medical);

''(C) acute hospitalization;

''(D) intensive outpatient/day treatment;

''(E) residential treatment;

''(F) transitional living for those needing a temporary, stable living environment that is supportive of treatment and recovery goals;

''(G) emergency shelter;

''(H) intensive case management;

''(I) Traditional Health Care Practices; and

''(J) diagnostic services.

''(2) CHILD CARE.—Behavioral health services for Indians from birth through age 17, including—

''(A) preschool and school age fetal alcohol disorder services, including assessment and behavioral intervention;

''(B) mental health and substance abuse services (emotional, organic, alcohol, drug, inhalant, and tobacco);

''(C) identification and treatment of co-occurring disorders and comorbidity;

''(D) prevention of alcohol, drug, inhalant, and tobacco use;

''(E) early intervention, treatment, and aftercare;

''(F) promotion of healthy approaches to risk and safety issues; and

''(G) identification and treatment of neglect and physical, mental, and sexual abuse.

''(3) ADULT CARE.—Behavioral health services for Indians from age 18 through 55, including—

''(A) early intervention, treatment, and aftercare;

''(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

''(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

''(D) promotion of healthy approaches for risk-related behavior;

''(E) treatment services for women at risk of giving birth to a child with a fetal alcohol disorder; and

''(F) sex specific treatment for sexual assault and domestic violence.

''(4) FAMILY CARE.—Behavioral health services for families, including—

''(A) early intervention, treatment, and aftercare for affected families;

''(B) treatment for sexual assault and domestic violence; and

''(C) promotion of healthy approaches relating to parenting, domestic violence, and other abuse issues.

''(5) ELDER CARE.—Behavioral health services for Indians 56 years of age and older, including—

''(A) early intervention, treatment, and aftercare;

''(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

''(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

''(D) promotion of healthy approaches to managing conditions related to aging;

''(E) sex specific treatment for sexual assault, domestic violence, neglect, physical and mental abuse and exploitation; and

''(F) identification and treatment of dementias regardless of cause.

''(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

''(1) ESTABLISHMENT.—The governing body of any Indian Tribe, Tribal Organization, or Urban Indian Organization may adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat substance abuse, mental illness, or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. This plan should include behavioral health services, social services, intensive outpatient services, and continuing aftercare.

''(2) TECHNICAL ASSISTANCE.—At the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, the Bureau of Indian Affairs and the Service shall cooperate with and provide technical assistance to the Indian Tribe, Tribal Organization, or Urban Indian Organization in the development and implementation of such plan.

''(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian Tribes and Tribal Organizations which adopt a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

''(e) COORDINATION FOR AVAILABILITY OF SERVICES.—The Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall coordinate behavioral health planning, to the extent feasible, with other Federal agencies and with State agencies, to encourage comprehensive behavioral health services for Indians regardless of their place of residence.

''(f) MENTAL HEALTH CARE NEED ASSESSMENT.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

''SEC. 702. MEMORANDA OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

''(a) CONTENTS.—Not later than 12 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, and the Secretary of the Interior shall develop and enter into a memoranda of agreement, or review and update any existing memoranda of agreement, as required by section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) under which the Secretaries address the following:

''(1) The scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians.

''(2) The existing Federal, tribal, State, local, and private services, resources, and programs available to provide behavioral health services for Indians.

''(3) The unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1).

''(4)(A) The right of Indians, as citizens of the United States and of the States in which they reside, to have access to behavioral health services to which all citizens have access.

''(B) The right of Indians to participate in, and receive the benefit of, such services.

''(C) The actions necessary to protect the exercise of such right.

''(5) The responsibilities of the Bureau of Indian Affairs and the Service, including mental illness identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and Service Unit, Service Area, and headquarters levels to address the problems identified in paragraph (1).

''(6) A strategy for the comprehensive coordination of the behavioral health services

provided by the Bureau of Indian Affairs and the Service to meet the problems identified pursuant to paragraph (1), including—

''(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and Indian Tribes and Tribal Organizations (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with behavioral health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually diagnosed individuals requiring behavioral health and substance abuse treatment; and

''(B) ensuring that the Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services.

''(7) Directing appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and Service Unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412).

''(8) Providing for an annual review of such agreement by the Secretaries which shall be provided to Congress and Indian Tribes and Tribal Organizations.

''(b) SPECIFIC PROVISIONS REQUIRED.—The memoranda of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

''(1) the determination of the scope of the problem of alcohol and substance abuse among Indians, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

''(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

''(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

''(c) CONSULTATION.—The Secretary, acting through the Service, and the Secretary of the Interior shall, in developing the memoranda of agreement under subsection (a), consult with and solicit the comments from—

''(1) Indian Tribes and Tribal Organizations;

''(2) Indians;

''(3) Urban Indian Organizations and other Indian organizations; and

''(4) behavioral health service providers.

''(d) PUBLICATION.—Each memorandum of agreement entered into or renewed (and amendments or modifications thereto) under subsection (a) shall be published in the Federal Register. At the same time as publication in the Federal Register, the Secretary shall provide a copy of such memoranda, amendment, or modification to each Indian Tribe, Tribal Organization, and Urban Indian Organization.

''SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide a program of comprehensive behavioral health, prevention, treatment, and aftercare, including Traditional Health Care Practices, which shall include—

''(A) prevention, through educational intervention, in Indian communities;

''(B) acute detoxification, psychiatric hospitalization, residential, and intensive outpatient treatment;

''(C) community-based rehabilitation and aftercare;

''(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

''(E) specialized residential treatment programs for high-risk populations, including pregnant and postpartum women and their children; and

''(F) diagnostic services.

''(2) TARGET POPULATIONS.—The target population of such programs shall be members of Indian Tribes. Efforts to train and educate key members of the Indian community shall also target employees of health, education, judicial, law enforcement, legal, and social service programs.

''(b) CONTRACT HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

''(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian Tribes and Tribal Organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

''SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary shall establish and maintain a mental health technician program within the Service which—

''(1) provides for the training of Indians as mental health technicians; and

''(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

''(b) PARAPROFESSIONAL TRAINING.—In carrying out subsection (a), the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide high-standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

''(c) SUPERVISION AND EVALUATION OF TECHNICIANS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall supervise and evaluate the mental health technicians in the training program.

''(d) TRADITIONAL HEALTH CARE PRACTICES.—The Secretary, acting through the Service, shall ensure that the program established pursuant to this subsection involves the use and promotion of the Traditional Health Care Practices of the Indian Tribes to be served.

''SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

''Subject to the provisions of section 221, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under this Act is required to be licensed as a clinical psychologist, social worker, or marriage and family therapist, respectively, or working under the direct supervision of a licensed clinical psychologist, social worker, or marriage and family therapist, respectively.

''SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

''(a) FUNDING.—The Secretary, consistent with section 701, shall make funds available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age.

''(b) USE OF FUNDS.—Funds made available pursuant to this section may be used to—

''(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

''(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

''(3) develop prevention and intervention models for Indian women which incorporate Traditional Health Care Practices, cultural values, and community and family involvement.

''(c) CRITERIA.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

''(d) EARMARK OF CERTAIN FUNDS.—Twenty percent of the funds appropriated pursuant to this section shall be used to make grants to Urban Indian Organizations.

''SEC. 707. INDIAN YOUTH PROGRAM.

''(a) DETOXIFICATION AND REHABILITATION.—The Secretary, acting through the Service, consistent with section 701, shall develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian Tribes or Tribal Organizations at the local level under the Indian Self-Determination and Education Assistance Act. Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

''(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an Area Office.

''(B) AREA OFFICE IN CALIFORNIA.—For the purposes of this subsection, the Area Office in California shall be considered to be 2 Area Offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

''(2) FUNDING.—For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

''(3) LOCATION.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at

a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the Indian Tribes to be served by such center.

''(4) SPECIFIC PROVISION OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

''(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating, and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

''(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).

''(B) PROVISION OF SERVICES TO ELIGIBLE YOUTHS.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youths residing in Alaska.

''(c) INTERMEDIATE ADOLESCENT BEHAVIORAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide intermediate behavioral health services, which may incorporate Traditional Health Care Practices, to Indian children and adolescents, including—

''(A) pretreatment assistance;

''(B) inpatient, outpatient, and aftercare services;

''(C) emergency care;

''(D) suicide prevention and crisis intervention; and

''(E) prevention and treatment of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence.

''(2) USE OF FUNDS.—Funds provided under this subsection may be used—

''(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

''(B) to hire behavioral health professionals;

''(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided;

''(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

''(E) for intensive home- and community-based services.

''(3) CRITERIA.—The Secretary, acting through the Service, shall, in consultation with Indian Tribes and Tribal Organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

''(d) FEDERALLY OWNED STRUCTURES.—

''(1) IN GENERAL.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall—

''(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youths; and

''(B) establish guidelines, in consultation with Indian Tribes and Tribal Organizations, for determining the suitability of any such federally owned structure to be used for local residential or regional behavioral health treatment for Indian youths.

''(2) TERMS AND CONDITIONS FOR USE OF STRUCTURE.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian Tribe or Tribal Organization operating the program.

''(e) REHABILITATION AND AFTERCARE SERVICES.—

''(1) IN GENERAL.—The Secretary, Indian Tribes, or Tribal Organizations, in cooperation with the Secretary of the Interior, shall develop and implement within each Service Unit, community-based rehabilitation and follow-up services for Indian youths who are having significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youths after their return to their home community.

''(2) ADMINISTRATION.—Services under paragraph (1) shall be provided by trained staff within the community who can assist the Indian youths in their continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

''(f) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youths authorized by this section, the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide for the inclusion of family members of such youths in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

''(g) MULTIDRUG ABUSE PROGRAM.—The Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youths residing in Indian communities, on or near reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youths.

''SEC. 708. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION, AND STAFFING.

''Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems. For the purposes of this subsection, California shall be considered to be 2 Area Offices, 1 office whose location shall be considered to encompass the northern area of the State of California and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California. The Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

''SEC. 709. TRAINING AND COMMUNITY EDUCATION.

''(a) PROGRAM.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement or provide funding for Indian Tribes and Tribal Organizations to develop and implement, within each Service Unit or tribal program, a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education about behavioral health issues to political leaders, Tribal judges, law enforcement personnel, members of tribal health and education boards, health care providers including traditional practitioners, and other critical members of each tribal community. Community-based training (oriented toward local capacity development) shall also include tribal community provider training (designed for adult learners from the communities receiving services for prevention, intervention, treatment, and aftercare).

''(b) INSTRUCTION.—The Secretary, acting through the Service, shall, either directly or through Indian Tribes and Tribal Organizations, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

''(c) TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, in consultation with Indian Tribes, Tribal Organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

''(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

''(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

''(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

''SEC. 710. BEHAVIORAL HEALTH PROGRAM.

''(a) INNOVATIVE PROGRAMS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, consistent with section 701, may plan, develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

''(b) FUNDING; CRITERIA.—The Secretary may award such funding for a project under subsection (a) to an Indian Tribe or Tribal Organization and may consider the following criteria:

''(1) The project will address significant unmet behavioral health needs among Indians.

''(2) The project will serve a significant number of Indians.

''(3) The project has the potential to deliver services in an efficient and effective manner.

''(4) The Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

''(5) The project may deliver services in a manner consistent with Traditional Health Care Practices.

''(6) The project is coordinated with, and avoids duplication of, existing services.

''(c) EQUITABLE TREATMENT.—For purposes of this subsection, the Secretary shall, in evaluating project applications or proposals, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

"SEC. 711. FETAL ALCOHOL DISORDER FUNDING.

''(a) PROGRAMS.—

''(1) ESTABLISHMENT.—The Secretary, consistent with section 701, acting through the Service, Indian Tribes, and Tribal Organizations, is authorized to establish and operate fetal alcohol disorder programs as provided in this section for the purposes of meeting the health status objectives specified in section 3.

''(2) USE OF FUNDS.—Funding provided pursuant to this section shall be used for the following:

''(A) To develop and provide for Indians community and in school training, education, and prevention programs relating to fetal alcohol disorders.

''(B) To identify and provide behavioral health treatment to high-risk Indian women and high-risk women pregnant with an Indian's child.

''(C) To identify and provide appropriate psychological services, educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected Indians and their families or caretakers.

''(D) To develop and implement counseling and support programs in schools for fetal alcohol disorder affected Indian children.

''(E) To develop prevention and intervention models which incorporate practitioners of Traditional Health Care Practices, cultural and spiritual values, and community involvement.

''(F) To develop, print, and disseminate education and prevention materials on fetal alcohol disorder.

''(G) To develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in Indian communities and Urban Centers.

''(H) To develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorder among Indians.

''(I) To develop and fund community-based adult fetal alcohol disorder housing and support services for Indians and for women pregnant with an Indian's child.

''(3) CRITERIA FOR APPLICATIONS.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

''(b) SERVICES.—The Secretary, acting through the Service and Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall—

''(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorder in Indian communities; and

''(2) provide supportive services, directly or through an Indian Tribe, Tribal Organization, or Urban Indian Organization, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorder.

''(c) TASK FORCE.—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorder Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the following:

''(1) The National Institute on Drug Abuse.

''(2) The National Institute on Alcohol and Alcoholism.

''(3) The Office of Substance Abuse Prevention.

''(4) The National Institute of Mental Health.

''(5) The Service.

''(6) The Office of Minority Health of the Department of Health and Human Services.

''(7) The Administration for Native Americans.

''(8) The National Institute of Child Health and Human Development (NICHD).

''(9) The Centers for Disease Control and Prevention.

''(10) The Bureau of Indian Affairs.

''(11) Indian Tribes.

''(12) Tribal Organizations.

''(13) Urban Indian Organizations.

''(14) Indian fetal alcohol disorder experts.

''(d) APPLIED RESEARCH PROJECTS.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and Urban Indians affected by fetal alcohol disorder.

''(e) FUNDING FOR URBAN INDIAN ORGANIZATIONS.—Ten percent of the funds appropriated pursuant to this section shall be used to make grants to Urban Indian Organizations funded under title V.

"SEC. 712. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.

''(a) ESTABLISHMENT.—The Secretary, acting through the Service, and the Secretary of the Interior, Indian Tribes, and Tribal Organizations shall establish, consistent with section 701, in every Service Area, programs involving treatment for—

''(1) victims of sexual abuse who are Indian children or children in an Indian household; and

''(2) perpetrators of child sexual abuse who are Indian or members of an Indian household.

''(b) USE OF FUNDS.—Funding provided pursuant to this section shall be used for the following:

''(1) To develop and provide community education and prevention programs related to sexual abuse of Indian children or children in an Indian household.

''(2) To identify and provide behavioral health treatment to victims of sexual abuse who are Indian children or children in an Indian household, and to their family members who are affected by sexual abuse.

''(3) To develop prevention and intervention models which incorporate Traditional Health Care Practices, cultural and spiritual values, and community involvement.

''(4) To develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in Indian communities and Urban Centers.

''(5) To identify and provide behavioral health treatment to Indian perpetrators and perpetrators who are members of an Indian household—

''(A) making efforts to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated; and

''(B) providing treatment after the perpetrator is released, until it is determined that the perpetrator is not a threat to children.

"SEC. 713. BEHAVIORAL HEALTH RESEARCH.

''The Secretary, in consultation with appropriate Federal agencies, shall provide funding to Indian Tribes, Tribal Organizations, and Urban Indian Organizations or enter into contracts with, or make grants to appropriate institutions for, the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes, or Tribal Organizations and among Indians in urban areas. Research priorities under this section shall include—

''(1) the interrelationship and interdependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

''(2) the development of models of prevention techniques.

The effect of the interrelationships and interdependencies referred to in paragraph (1) on children, and the development of prevention techniques under paragraph (2) applicable to children, shall be emphasized.

"SEC. 714. DEFINITIONS.

''For the purpose of this title, the following definitions shall apply:

''(1) ASSESSMENT.—The term 'assessment' means the systematic collection, analysis, and dissemination of information on health status, health needs, and health problems.

''(2) ALCOHOL-RELATED NEURODEVELOPMENTAL DISORDERS OR ARND.—The term 'alcohol-related neurodevelopmental disorders' or 'ARND' means, with a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities. Behaviorally, there can be problems with irritability, and failure to thrive as infants. As children become older there will likely be hyperactivity, attention deficit, language dysfunction, and perceptual and judgment problems.

''(3) BEHAVIORAL HEALTH AFTERCARE.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse, or mental health outpatient or outpatient treatment. The purpose is to help prevent or deal with relapse by ensuring that by the time a client or patient is discharged from a level of care, such as outpatient treatment, an aftercare plan has been developed with the client. An aftercare plan may use such resources a as community-based therapeutic group, transitional living facilities, a 12-step sponsor, a local 12-step or other related support group, and other community-based providers (mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, ministers, etc.)

''(4) DUAL DIAGNOSIS.—The term 'dual diagnosis' means coexisting substance abuse and mental illness conditions or diagnosis. Such clients are sometimes referred to as mentally ill chemical abusers (MICAs).

''(5) FETAL ALCOHOL DISORDERS.—The term 'fetal alcohol disorders' means fetal alcohol syndrome, partial fetal alcohol syndrome and alcohol related neurodevelopmental disorder (ARND).

''(6) FETAL ALCOHOL SYNDROME OR FAS.—The term 'fetal alcohol syndrome' or 'FAS' means a syndrome in which, with a history of maternal alcohol consumption during pregnancy, the following criteria are met:

''(A) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.

''(B) Craniofacial abnormalities with at least 2 of the following: microophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

''(C) Prenatal or postnatal growth delay.

''(7) PARTIAL FAS.—The term 'partial FAS' means, with a history of maternal alcohol consumption during pregnancy, having most of the criteria of FAS, though not meeting a minimum of at least 2 of the following: microophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

''(8) REHABILITATION.—The term 'rehabilitation' means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.

''(9) SUBSTANCE ABUSE.—The term 'substance abuse' includes inhalant abuse.

''SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out the provisions of this title.

''TITLE VIII—MISCELLANEOUS

''SEC. 801. REPORTS.

''The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to Congress a report containing the following:

''(1) A report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and assessments and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians and ensure a health status for Indians, which are at a parity with the health services available to and the health status of the general population, including specific comparisons of appropriations provided and those required for such parity.

''(2) A report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian Tribes, Tribal Organizations, and Urban Indian Organizations to address such impact, including a report on proposed changes in allocation of funding pursuant to section 808.

''(3) A report on the use of health services by Indians—

''(A) on a national and area or other relevant geographical basis;

''(B) by gender and age;

''(C) by source of payment and type of service;

''(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

''(E) provided under contracts.

''(4) A report of contractors to the Secretary on Health Care Educational Loan Repayments every 6 months required by section 110.

''(5) A general audit report of the Secretary on the Health Care Educational Loan Repayment Program as required by section 110(n).

''(6) A report of the findings and conclusions of demonstration programs on development of educational curricula for substance abuse counseling as required in section 125(f).

''(7) A separate statement which specifies the amount of funds requested to carry out the provisions of section 201.

''(8) A report of the evaluations of health promotion and disease prevention as required in section 203(c).

''(9) A biennial report to Congress on infectious diseases as required by section 212.

''(10) A report on environmental and nuclear health hazards as required by section 215.

''(11) An annual report on the status of all health care facilities needs as required by section 301(c)(2) and 301(d).

''(12) Reports on safe water and sanitary waste disposal facilities as required by section 302(h).

''(13) An annual report on the expenditure of nonservice funds for renovation as required by sections 304(b)(2).

''(14) A report identifying the backlog of maintenance and repair required at Service and tribal facilities required by section 313(a).

''(15) A report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII, XIX, and XXI of the Social Security Act.

''(16) A report on any arrangements for the sharing of medical facilities or services, as authorized by section 406.

''(17) A report on evaluation and renewal of Urban Indian programs under section 505.

''(18) A report on the evaluation of programs as required by section 513(d).

''(19) A report on alcohol and substance abuse as required by section 701(f).

''SEC. 802. REGULATIONS.

''(a) DEADLINES.—

''(1) PROCEDURES.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out titles I (except sections 105, 115, and 117), II, III, and VII. The Secretary may promulgate regulations to carry out sections 105, 115, 117, and titles IV and V, using the procedures required by chapter V of title 5, United States Code (commonly known as the 'Administrative Procedure Act'). The Secretary shall issue no regulations to carry out titles VI and VIII.

''(2) PROPOSED REGULATIONS.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 and shall have no less than a 120-day comment period.

''(3) EXPIRATION OF AUTHORITY.—Except as otherwise provided herein, the authority to promulgate regulations under this Act shall expire 24 months from the date of enactment of this Act.

''(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian Tribes and Tribal Organizations, a majority of whom shall be nominated by and be representatives of Indian Tribes, Tribal Organizations, and Urban Indian Organizations from each Service Area. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 204(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).

''(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

''(d) LACK OF REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

''(e) INCONSISTENT REGULATIONS.—The provisions of this Act shall supersede any conflicting provisions of law) in effect on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

''SEC. 803. PLAN OF IMPLEMENTATION.

''Not later than 9 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall submit to Congress a plan explaining the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

''SEC. 804. AVAILABILITY OF FUNDS.

''The funds appropriated pursuant to this Act shall remain available until expended.

''SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

''Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

''SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

''(a) IN GENERAL.—The following California Indians shall be eligible for health services provided by the Service:

''(1) Any member of a federally recognized Indian Tribe.

''(2) Any descendant of an Indian who was residing in California on June 1, 1852, if such descendant—

''(A) is a member of the Indian community served by a local program of the Service; and

''(B) is regarded as an Indian by the community in which such descendant lives.

''(3) Any Indian who holds trust interests in public domain, national forest, or reservation allotments in California.

''(4) Any Indian in California who is listed on the plans for distribution of the assets of rancherias and reservations located within the State of California under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

''(b) CLARIFICATION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

''(a) CHILDREN.—Any individual who—

''(1) has not attained 19 years of age;

''(2) is the natural or adopted child, stepchild, foster child, legal ward, or orphan of an eligible Indian; and

''(3) is not otherwise eligible for health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until 1 year after the date of a determination of competency.

''(b) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but is not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all such spouses or spouses who are married to members of each Indian Tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian Tribe or Tribal Organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

''(c) PROVISION OF SERVICES TO OTHER INDIVIDUALS.—

''(1) IN GENERAL.—The Secretary is authorized to provide health services under this subsection through health programs operated directly by the Service to individuals

who reside within the Service Unit and who are not otherwise eligible for such health services if—

''(A) the Indian Tribes served by such Service Unit request such provision of health services to such individuals; and

''(B) the Secretary and the served Indian Tribes have jointly determined that—

''(i) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

''(ii) there is no reasonable alternative health facilities or services, within or without the Service Unit, available to meet the health needs of such individuals.

''(2) ISDEAA PROGRAMS.—In the case of health programs and facilities operated under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the governing body of the Indian Tribe or Tribal Organization providing health services under such contract or compact is authorized to determine whether health services should be provided under such contract or compact to individuals who are not otherwise eligible for such services under any other subsection of this section or under any other provision of law. In making such determination, the governing body of the Indian Tribe or Tribal organization shall take into account the considerations described in clauses (i) and (ii) of paragraph (1)(B).

''(3) PAYMENT FOR SERVICES.—

''(A) IN GENERAL.—Persons receiving health services provided by the Service under of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 404 of this Act or any other provision of law, amounts collected under this subsection, including medicare, medicaid, or SCHIP reimbursements under titles XVIII, XIX, and XXI of the Social Security Act, shall be credited to the account of the program providing the service and shall be used for the purposes listed in section 401(d)(2) and amounts collected under this subsection shall be available for expenditure within such program.

''(B) INDIGENT PEOPLE.—Health services may be provided by the Secretary through the Service under this subsection to an indigent individual who would not be otherwise eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent individual.

''(4) REVOCATION OF CONSENT FOR SERVICES.—

''(A) SINGLE TRIBE SERVICE AREA.—In the case of a Service Area which serves only 1 Indian Tribe, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian Tribe revokes its concurrence to the provision of such health services.

''(B) MULTITRIBAL SERVICE AREA.—In the case of a multitribal Service Area, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian Tribes in the Service Area revoke their concurrence to the provisions of such health services.

''(d) OTHER SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other provision of law in order to—

''(1) achieve stability in a medical emergency;

''(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

''(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through postpartum; or

''(4) provide care to immediate family members of an eligible individual if such care is directly related to the treatment of the eligible individual.

''(e) HOSPITAL PRIVILEGES FOR PRACTITIONERS.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) may be extended to non-Service health care practitioners who provide services to individuals described in subsection (a), (b), (c), or (d). Such non-Service health care practitioners may, as part of privileging process, be designated as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible individuals as a part of the conditions under which such hospital privileges are extended.

''(f) ELIGIBLE INDIAN.—For purposes of this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

"SEC. 808. REALLOCATION OF BASE RESOURCES.

''(a) REPORT REQUIRED.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a Service Unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

''(b) EXCEPTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is at least 5 percent less than the amount appropriated to the Service for the previous fiscal year.

"SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

''The Secretary shall provide for the dissemination to Indian Tribes, Tribal Organizations, and Urban Indian Organizations of the findings and results of demonstration projects conducted under this Act.

"SEC. 810. PROVISION OF SERVICES IN MONTANA.

''(a) CONSISTENT WITH COURT DECISION.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cir. 1987).

''(b) CLARIFICATION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

"SEC. 811. MORATORIUM.

''During the period of the moratorium imposed on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for services are developed in accordance with section 802.

"SEC. 812. TRIBAL EMPLOYMENT.

''For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, chapter 372), an Indian Tribe or Tribal Organization carrying out a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not be considered an 'employer'.

"SEC. 813. SEVERABILITY PROVISIONS.

''If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

"SEC. 814. ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON INDIAN HEALTH CARE.

''(a) ESTABLISHMENT.—There is established the National Bipartisan Indian Health Care Commission (the 'Commission').

''(b) DUTIES OF COMMISSION.—The duties of the Commission are the following:

''(1) To establish a study committee composed of those members of the Commission appointed by the Director and at least 4 members of Congress from among the members of the Commission, the duties of which shall be the following:

''(A) To the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, which may include authorizing and making funds available for feasibility studies of various models for providing and funding health services for all Indian beneficiaries, including those who live outside of a reservation, temporarily or permanently.

''(B) To make legislative recommendations to the Commission regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

''(C) To determine the effect of the enactment of such recommendations on (i) the existing system of delivery of health services for Indians, and (ii) the sovereign status of Indian Tribes.

''(D) Not later than 12 months after the appointment of all members of the Commission, to submit a written report of its findings and recommendations to the full Commission. The report shall include a statement of the minority and majority position of the Committee and shall be disseminated, at a minimum, to every Indian Tribe, Tribal Organization, and Urban Indian Organization for comment to the Commission.

''(E) To report regularly to the full Commission regarding the findings and recommendations developed by the study committee in the course of carrying out its duties under this section.

''(2) To review and analyze the recommendations of the report of the study committee.

''(3) To make legislative recommendations to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

''(4) Not later than 18 months following the date of appointment of all members of the Commission, submit a written report to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

''(c) MEMBERS.—

''(1) APPOINTMENT.—The Commission shall be composed of 25 members, appointed as follows:

''(A) Ten members of Congress, including 3 from the House of Representatives and 2 from the Senate, appointed by their respective majority leaders, and 3 from the House of Representatives and 2 from the Senate, appointed by their respective minority leaders, and who shall be members of the standing committees of Congress that consider legislation affecting health care to Indians.

''(B) Twelve persons chosen by the congressional members of the Commission, 1 from each Service Area as currently designated by the Director to be chosen from among 3 nominees from each Service Area put forward by the Indian Tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and to a reasonable representation on the commission of members who are familiar with various health care delivery modes and who represent Indian Tribes of various size populations.

''(C) Three persons appointed by the Director who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees put forward by those programs whose funds are provided in whole or in part by the Service primarily or exclusively for the benefit of Urban Indians.

''(D) All those persons chosen by the congressional members of the Commission and by the Director shall be members of federally recognized Indian Tribes.

''(2) CHAIR; VICE CHAIR.—The Chair and Vice Chair of the Commission shall be selected by the congressional members of the Commission.

''(3) TERMS.—The terms of members of the Commission shall be for the life of the Commission.

''(4) DEADLINE FOR APPOINTMENTS.—Congressional members of the Commission shall be appointed not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, and the remaining members of the Commission shall be appointed not later than 60 days following the appointment of the congressional members.

''(5) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(d) COMPENSATION.—

''(1) CONGRESSIONAL MEMBERS.—Each congressional member of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

''(2) OTHER MEMBERS.—Remaining members of the Commission, while serving on the business of the Commission (including travel time), shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. For purpose of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(e) MEETINGS.—The Commission shall meet at the call of the Chair.

''(f) QUORUM.—A quorum of the Commission shall consist of not less than 15 members, provided that no less than 6 of the members of Congress who are Commission members are present and no less than 9 of the members who are Indians are present.

''(g) EXECUTIVE DIRECTOR; STAFF; FACILITIES.—

''(1) APPOINTMENT; PAY.—The Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

''(2) STAFF APPOINTMENT.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

''(3) STAFF PAY.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

''(4) TEMPORARY SERVICES.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(5) FACILITIES.—The Administrator of General Services shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

''(h) HEARINGS.—(1) For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, provided that at least 6 regional hearings are held in different areas of the United States in which large numbers of Indians are present. Such hearings are to be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this subsection, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established in this section may count toward the number of regional hearings required by this subsection.

''(2) Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

''(3)(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

''(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

''(4) Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

''(5) Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

''(6) The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

''(7) The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

''(8) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(9) For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 to carry out the provisions of this section, which sum shall not be deducted from or affect any other appropriation for health care for Indian persons.

''(j) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

''SEC. 815. APPROPRIATIONS; AVAILABILITY.

''Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

''SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.''.

(b) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Health and Human Services (6).'' and inserting ''Assistant Secretaries of Health and Human Services (7)''.

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking ''Director, Indian Health Service, Department of Health and Human Services''.

(c) AMENDMENTS TO OTHER PROVISIONS OF LAW.—

(1) Section 3307(b)(1)(C) of the Children's Health Act of 2000 (25 U.S.C. 1671 note; Public Law 106–310) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(2) The Indian Lands Open Dump Cleanup Act of 1994 is amended—

(A) in section 3 (25 U.S.C. 3902)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (1), (3), (4), (5), and (6) as paragraphs (4), (5), (2), (6), and

(1), respectively, and moving those paragraphs so as to appear in numerical order; and

(iii) by inserting before paragraph (4) (as redesignated by subclause (II)) the following:

''(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary for Indian Health.'';

(B) in section 5 (25 U.S.C. 3904), by striking the section heading and inserting the following:

''SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.'';

(C) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking ''DIRECTOR'' and inserting ''ASSISTANT SECRETARY'';

(D) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking ''DIRECTOR'' and inserting ''ASSISTANT SECRETARY''; and

(E) by striking ''Director'' each place it appears and inserting ''Assistant Secretary''.

(3) Section 5504(d)(2) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100–297) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(4) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(5) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) are amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(6) Section 317M(b) of the Public Health Service Act (42 U.S.C. 247b–14(b)) is amended—

(A) by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''; and

(B) in paragraph (2)(A), by striking ''the Directors referred to in such paragraph'' and inserting ''the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health''.

(7) Section 417C(b) of the Public Health Service Act (42 U.S.C. 285–9(b)) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(8) Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j–12(i)) is amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(9) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended in the last sentence by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(10) Section 203(b) of the Michigan Indian Land Claims Settlement Act (Public Law 105–143; 111 Stat. 2666) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

SEC. 3. SOBOBA SANITATION FACILITIES.

The Act of December 17, 1970 (84 Stat. 1465), is amended by adding at the end the following new section:

''SEC. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).''.

SEC. 4. AMENDMENTS TO THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.

(a) EXPANSION OF MEDICAID PAYMENT FOR ALL COVERED SERVICES FURNISHED BY INDIAN HEALTH PROGRAMS.—

(1) EXPANSION TO ALL COVERED SERVICES.—Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended—

(A) by amending the heading to read as follows:

''INDIAN HEALTH PROGRAMS''; and

(B) by amending subsection (a) to read as follows:

''(a) ELIGIBILITY FOR REIMBURSEMENT FOR MEDICAL ASSISTANCE.—The Indian Health Service and an Indian Tribe, Tribal Organization, or an urban Indian Organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) shall be eligible for reimbursement for medical assistance provided under a State plan or under waiver authority with respect to items and services furnished by the Indian Health Service, Indian Tribe, Tribal Organization, or Urban Indian Organization if the furnishing of such services meets all the conditions and requirements which are applicable generally to the furnishing of items and services under this title and under such plan or waiver authority.''.

(2) ELIMINATION OF TEMPORARY DEEMING PROVISION.—Such section is amended by striking subsection (b).

(3) REVISION OF AUTHORITY TO ENTER INTO AGREEMENTS.—Subsection (c) of such section is redesignated as subsection (b) and is amended to read as follows:

''(b) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an agreement with a State for the purpose of reimbursing the State for medical assistance provided by the Indian Health Service, an Indian Tribe, Tribal Organizations, or an Urban Indian Organization (as so defined), directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian Tribe, Tribal Organization, or an Urban Indian Organization and another health care provider to Indians who are eligible for medical assistance under the State plan or under waiver authority.''.

(4) REFERENCE CORRECTION.—Subsection (d) of such section is redesignated as subsection (c) and is amended—

(A) by striking ''For'' and inserting ''DIRECT BILLING.—For''; and

(B) by striking ''section 405'' and inserting ''section 401(d)''.

(b) SPECIAL RULES FOR INDIANS, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—

(1) IN GENERAL.—Section 1932 of the Social Security Act (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

''(h) SPECIAL RULES FOR INDIANS, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—A State shall comply with the provisions of section 413 of the Indian Health Care Improvement Act (relating to the treatment of Indians, Indian health care providers, and Indian managed care entities under a medicaid managed care program).''.

(2) APPLICATION TO SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(1)) is amended by adding at the end the following:

''(E) Subsections (a)(2)(C) and (h) of section 1932.''.

(c) SCHIP TREATMENT OF INDIAN TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended—

(1) in paragraph (2), by adding at the end the following:

''(C) INDIAN HEALTH PROGRAM PAYMENTS.—For provisions relating to authorizing use of allotments under this title for payments to Indian Health Programs and Urban Indian Organizations, see section 410 of the Indian Health Care Improvement Act.''; and

(2) in paragraph (6)(B), by inserting ''or by an Indian Tribe, Tribal Organization, or Urban Indian Organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act)'' after ''Service''.

SEC. 5. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

''TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

''SEC. 801. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

''(2) COMMITTEE.—The term 'Committee' means the Committee for the Establishment of Native American Health and Wellness Foundation established under section 802(f).

''(3) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(5) SERVICE.—The term 'Service' means the Indian Health Service of the Department of Health and Human Services.

''SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

''(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

''(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

''(c) NATURE OF CORPORATION.—The Foundation—

''(1) shall be a charitable and nonprofit federally chartered corporation; and

''(2) shall not be an agency or instrumentality of the United States.

''(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

''(e) DUTIES.—The Foundation shall—

''(1) encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

''(2) undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

''(3) participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

''(f) COMMITTEE FOR THE ESTABLISHMENT OF NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.—

''(1) IN GENERAL.—The Secretary shall establish the Committee for the Establishment of Native American Health and Wellness Foundation to assist the Secretary in establishing the Foundation.

''(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—

''(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

''(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the Board is established;

''(C) establish the constitution and initial bylaws of the Foundation;

''(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

''(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

''(g) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

''(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

''(3) SELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

''(B) REQUIREMENTS.—

''(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, who shall have staggered terms.

''(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

''(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

''(II) shall have staggered terms.

''(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

''(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

''(h) OFFICERS.—

''(1) IN GENERAL.—The officers of the Foundation shall be—

''(A) a secretary, elected from among the members of the Board; and

''(B) any other officers provided for in the constitution and bylaws of the Foundation.

''(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

''(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

''(i) POWERS.—The Foundation—

''(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

''(2) may adopt and alter a corporate seal;

''(3) may enter into contracts;

''(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

''(5) may sue and be sued; and

''(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

''(j) PRINCIPAL OFFICE.—

''(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

''(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

''(k) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

''(l) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

''(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

''(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

''(m) RESTRICTIONS.—

''(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed 10 percent of the sum of—

''(A) the amounts transferred to the Foundation under subsection (o) during the preceding fiscal year; and

''(B) donations received from private sources during the preceding fiscal year.

''(2) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

''(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

''(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

''(o) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (e)(1) $500,000 for each fiscal year, as adjusted to reflect changes in the Consumer Price Index for all-urban consumers published by the Department of Labor.

''(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.), if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

''SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

''(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

''(1) may provide personnel, facilities, and other administrative support services to the Foundation;

''(2) may provide funds for initial operating costs and to reimburse the travel expenses of the members of the Board; and

''(3) shall require and accept reimbursements from the Foundation for—

''(A) services provided under paragraph (1); and

''(B) funds provided under paragraph (2).

''(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

''(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

''(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

''(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

''(1) are available; and

''(2) are provided on reimbursable cost basis.''.

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (as added by section 1302 of the American Indian Education Foundation Act of 2000) (25 U.S.C. 458bbb et seq.)) as title VII;

(2) by redesignating sections 501, 502, and 503 (as added by section 1302 of the American Indian Education Foundation Act of 2000) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking ''section 501'' and inserting ''section 701''.

Mr. DORGAN. I thank Chairman MCCAIN for his leadership in introducing the Indian Health Care Improvement Act Amendments of 2005. I have been pleased to work with him in constructing this legislation. He and I are united in our agreement that getting the Indian Health Care Improvement Act reauthorized this year is the Indian Affairs Committee's top priority.

This legislation was last reauthorized in 1992. Since 1999, the director of the Indian Health Service and his staff have worked with a national steering committee of tribal leaders and representatives of Indian health organizations, as well as with the congressional authorizing committees, on reauthorization of and amendments to the Indian Health Care Improvement Act.

The bill that we introduce today reflects many elements of these discussions and negotiations over recent years, as well as testimony received at a number of hearings held by the Senate Indian Affairs Committee and House Resources Committee. It is important that we begin as soon as possible to receive the views of Indian Country, the administration and others on this legislation.

I am sure that in the course of this Congress, there will be changes to the bill that is being proposed today. As Chairman MCCAIN knows, I am committed to addressing the serious issue of teen suicide that is epidemic on several Indian reservations, in North Dakota and other areas of the country. I hope that the recommendations of Indian parents, students, tribal officials and health professionals may lead to additional provisions in the Act to deal with this very serious problem.

I look forward to the comments of the administration, especially the Indian Health Services, as well as other committees of the Congress, tribes and tribal organizations, urban Indian entities, and others to help us craft legislation that will provide creative and effective solutions to address the health care needs of American Indian and Alaska Native communities.

Mr. SANTORUM (for himself and Mr. WYDEN):

S. 1058. A bill to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of

such Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I rise today to introduce the Community Health Center Volunteer Physician Protection Act of 2005 along with Senator RON WYDEN. Representative TIM MURPHY of Pennsylvania introduced identical bipartisan legislation in the House of Representatives, H.R. 1313.

Community health centers offer primary and preventive health care services to everyone, including low-income, underinsured and uninsured families. Community health centers are typically located in high-need areas identified by the Federal Government as having elevated poverty, higher than average infant mortality, and where few physicians practice. They tailor their services to fit the special needs and priorities of their communities, and offer services that help their patients access health care such as health education, transportation and home visitation.

While low-income individuals have access to Medicaid and the elderly and the disabled have access to Medicare, uninsured and underinsured families often delay seeing a doctor or turn to emergency departments where treatment is several times more expensive.

Community health centers, however, provide comprehensive and preventive care that adjusts charges for patient care according to family income. The Federal Government spends over $23 billion a year to offset losses incurred by hospitals for patients unable to pay their bills, and the Department of Health and Human Services note that medical care at community health centers cost only about $1.30 per day per patient served. In fact, medical care at community health centers is around $250 less per patient served than the average annual expenditure for an office-based medical provider.

Community health centers offer an affordable source of quality health care, but we need more of them. The President has proposed a $304 million increase for community health center programs to create 1,200 new or expanded sites to serve an additional 6.1 million people by next year. In order to meet that goal, the centers must double their workforce by adding double the clinicians by 2006. Hiring this many doctors would be costly, but encouraging more to volunteer would help to meet this need. While many physicians are willing to volunteer their services at these centers, they often hesitate due to the high cost of medical liability insurance. As a result, there are too few volunteer physicians to meet our health care needs.

By comparison, volunteer physicians at free health clinics and paid physicians at community health centers already receive comprehensive medical liability coverage under the Federal Tort Claims Act (FTCA).

Accordingly, the Community Health Center Volunteer Physician Protection Act of 2005 would extend the medical liability protections of FTCA to volunteer physicians at community health centers. These protections are necessary to ensure that the centers can continue to play an important role in lowering our Nation's health care costs and meeting the needs for affordable and access quality health care. The Community Health Center Volunteer Physician Protection Act of 2005 is supported by the National Association of Community Health Centers, the American Medical Association and the American Osteopathic Association.

The impact that community health centers have on the citizens of the Commonwealth of Pennsylvania is significant. Pennsylvania is the home to twenty-nine Federal grantees, including 11 of which are rural, and 151 different service delivery sites. These services are crucial in my home state which also faces a severe medical liability crisis.

We must continue to encourage the spirit of giving and volunteerism, particularly in the healthcare arena. I urge my colleagues to support the Community Health Center Volunteer Physician Protection Act of 2005.

By Mr. BROWNBACK (for himself, Mr. SMITH, Mr. CHAMBLISS, Mr. DODD, Mr. FEINGOLD, and Mrs. CLINTON):

S.J. Res. 19. A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act; to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe I am pleased to submit a bipartisan resolution in support of the vital work of the Organization for Security and Cooperation in Europe (OSCE) in conjunction with the 30th anniversary of the signing of the Helsinki Final Act on August 1. I am pleased that Senate Commissioners SMITH of Oregon, CHAMBLISS, DODD, FEINGOLD, and CLINTON are included as original cosponsors of this resolution.

For three decades the OSCE has provided an important framework for advancing democracy, human rights and the rule of law in an expansive region encompassing the U.S. and Canada, Europe and the countries of Central Asia. Over the years, the OSCE participating States have hammered out an extensive body of commitments agreed on the basis of consensus. Our Commission was established by Congress to monitor and encourage the OSCE participating States—now numbering 55—to implement the commitments they have accepted. The Commission's mission can be distilled to a single word, accountability. As President Ford remarked when signing the Final Act on behalf of the United States, ''History will judge this Conference . . . not only by the promises we make, but by the promises we keep.''

The Final Act inspired courageous individuals in the Soviet Union and Eastern Europe to form monitoring groups to assess how their respective governments lived up to the commitments they had endorsed on paper. For their temerity in seeking accountability most activists were imprisoned, banished or exiled. Many endured years of suffering in the gulag. Some paid the price with their very lives. Ultimately, their sacrifice and the work of countless others began to bear fruit, ushering in the dramatic changes of the late 1980's and early 90's.

A catalyst for change, the Helsinki Final Act and the process it began provided an important backdrop against which President Ronald Reagan, standing in front of Berlin's Brandenburg Gate, could boldly declare, ''Mr. Gorbachev, tear down this wall.'' Bold leadership led to concrete results with the resolution of hundreds of cases of political prisoners and prisoners of conscience as well as the reunification of tens of thousands of families. Progress in implementing existing commitments paved the way for the participating States to address the need for systemic change to ensure sustained respect for human rights. In 1990, as the Iron Curtain began to fall, the leaders of the then—35 participating States declared, ''We undertake to build, consolidate and strengthen democracy as the only system of government of our nations.'' The following year they categorically and irrevocably declared that human rights commitments ''are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.'' In a step designed to preserve the unity of the Helsinki process, each country that joined the OSCE after 1975 submitted a letter in which the accepted in their entirety all commitments and responsibilities contained in the Helsinki Final Act, and all subsequent documents adopted prior to their membership. To underscore this continuity, the leaders of each of these countries signed the actual original 1975 Final Act document.

With the break up of the Soviet Union, many observers believed—or hoped—that the fall of communism would usher in a new era and the relatively speedy emergence of states that treat their citizens and neighbors with respect. Regrettably, the gap between commitment and the situation on the ground in a number of OSCE participating States remains wide, and in at least a couple of countries is growing alarmingly wider.

Elsewhere, the OSCE has played an important role in the aftermath of conflicts that ravaged much of the Balkans region. The atrocities committed during these conflicts, in particular during the Bosnian conflict from 1992 to 1995, represent the most egregious violations of Helsinki principles in Europe since the Final Act was signed, indeed since World War II. By placing field missions throughout that region, the OSCE has helped heal the wounds, in particular by facilitating the return

of those displaced from their homes, by improving conditions for elections, by training local police and by monitoring borders used by criminal gangs who profit from the chaos of conflict. There have been improvements in recent years, but there is still plenty of work to do to build the democratic institutions and respect for the rule of law.

Freedom is on the march in places some had written off as unsuited for democracy. Kyrgyzstan's Tulip Revolution, Ukraine's Orange Revolution, Georgia's Rose Revolution, and Serbia's Democratic Revolution testify to the enduring power of the ideas reflected in the Helsinki Final Act and other OSCE documents. As we approach the 30th anniversary of the Final Act, a number of signatory states—most notably Russia and Belarus—seem determined to diminish the democratic content of the OSCE and rewrite related commitments they accepted when they joined the OSCE. It is imperative that the United States hold firm to the values that have inspired democratic change in much of the OSCE region, even as we redouble our efforts to encourage all participating States to implement their freely accepted commitments.

In recent years the OSCE has made significant inroads in confronting and combating the rise in anti-Semitism and related violence in the OSCE region, including the United States. I would point out that the OSCE was the first multilateral institution to speak out against anti-Semitism. While many OSCE states have responded appropriately, vigorously investigating the perpetrators and pursuing criminal prosecution, we must remain vigilant in addressing manifestations of anti-Semitism. The OSCE conference on anti-Semitism and other forms of intolerance to be held in June in Cordoba will provide a timely opportunity for countries to report on measures they are taking to address these concerns.

The OSCE is also playing an important role in promoting the right of individuals to freely profess and practice their faith. A number of countries in the OSCE region have adopted or are considering laws on religion that would severely restrict or otherwise regulate this fundamental right. Similarly, the OSCE has given priority attention to efforts to combat trafficking in human beings, encouraging a number of participating States to adopt measures to prevent trafficking, prosecute perpetrators, and protect victims.

In her confirmation testimony, Secretary of State Rice referred to the potential role that multilateral institutions can play in multiplying the strength of freedom-loving nations. Indeed, the OSCE has tremendous potential to play an even greater role in promoting democracy, human rights, and rule of law in a region of strategic importance to the United States.

Over the past three decades the OSCE has served as an important catalyst for change. An important aspect of the success of the Helsinki Process has been the strong partnership forged with human rights advocates, including non-governmental organizations. As we look toward the work ahead, we would do well to recall the insightful observation of renowned physicist, humanitarian, and Nobel Peace Prize laureate, Andrei Sakharov, ''The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems.''

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 144—RECOGNIZING TIM NELSON AND HUGH SIMS FOR THEIR BRAVERY AND THEIR CONTRIBUTIONS IN HELPING THE FEDERAL BUREAU OF INVESTIGATION DETAIN ZACARIAS MOUSSAOUI

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 144

Whereas Tim Nelson called the Federal Bureau of Investigation's (FBI) Minneapolis Office at 8:30 am on Wednesday, August 15, 2001;

Whereas Hugh Sims called the FBI's Minneapolis Office at 9:30 am on Wednesday, August 15, 2001;

Whereas their calls set into motion the only United States criminal prosecution, so far, stemming from the attacks on our Nation on September 11, 2001;

Whereas on April 22, 2005, Zacarias Moussaoui pled guilty to 6 counts of conspiracy to commit terrorism on September 11, 2001; and

Whereas according to FBI officials, the actions of these 2 courageous and greathearted men may have saved thousands of lives and preempted a possible attack on the White House: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Tim Nelson and Hugh Sims should be recognized for their bravery and their contributions in helping the Federal Bureau of Investigation detain Zacarias Moussaoui;

(2) the United States is grateful to Tim Nelson and Hugh Sims for their heroism; and

(3) we, as a nation, should continue to follow their example as we fight the war on terror.

SENATE CONCURRENT RESOLUTION 34—URGING THE GOVERNMENT OF THE REPUBLIC OF ALBANIA TO ENSURE THAT THE PARLIAMENTARY ELECTIONS TO BE HELD ON JULY 3, 2005, ARE CONDUCTED IN ACCORDANCE WITH INTERNATIONAL STANDARDS FOR FREE AND FAIR ELECTIONS

Mr. BROWNBACK (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 34

Whereas the United States maintains strong and friendly relations with the Republic of Albania and appreciates the ongoing support of the people of Albania;

Whereas the President of Albania has called for elections to Albania's parliament, known as the People's Assembly, to be held on July 3, 2005;

Whereas Albania is one of 55 participating States in the Organization for Security and Cooperation in Europe (OSCE), all of which have adopted the 1990 Copenhagen Document containing specific commitments relating to the conduct of elections;

Whereas these commitments, which encourage transparency, balance, and impartiality in an election process, have become the standard by which observers determine whether elections have been conducted freely and fairly;

Whereas, though improvements over time have been noted, the five multiparty parliamentary elections held in Albania between 1991 and 2001, as well as elections for local offices held between and after those years, fell short of the standards in the Copenhagen Document to varying degrees, according to OSCE and other observers;

Whereas with OSCE and other international assistance, the Government of Albania has improved the country's electoral and legal framework and enhanced the capacity to conduct free and fair elections;

Whereas subsequent to the calling of elections, Albania's political parties have accepted a code of conduct regarding their campaign activities, undertaking to act in accordance with the law, to refrain from inciting violence or hatred in the election campaign, and to be transparent in disclosing campaign funding; and

Whereas meeting the standards in the Copenhagen Document for free and fair elections is absolutely essential to Albania's desired integration into European and Euro-Atlantic institutions, including full membership in the North Atlantic Treaty Organization (NATO), as well as to Albania's progress in addressing official corruption and combatting organized crime: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) welcomes the opportunity for the Republic of Albania to demonstrate its willingness and preparedness to take the next steps in European and Euro-Atlantic integration by holding parliamentary elections on July 3, 2005, that meet the Organization for Security and Cooperation in Europe (OSCE) standards for free and fair elections as defined in the 1990 Copenhagen Document;

(2) firmly believes that the citizens of Albania, like all people, should be able to choose their own representatives in parliament and government in free and fair elections, and to hold these representatives accountable through elections at reasonable intervals;

(3) supports commitments by Albanian political parties to adhere to a basic code of conduct for campaigning and urges such parties and all election officials in Albania to adhere to laws relating to the elections, and to conduct their activities in an impartial and transparent manner, by allowing international and domestic observers to have unobstructed access to all aspects of the election process, including public campaign events, candidates, news media, voting, and post-election tabulation of results and processing of election challenges and complaints;

(4) supports assistance by the United States to help the people of Albania establish a fully free and open democratic system, a prosperous free market economy, and the rightful place of Albania in European and Euro-Atlantic institutions, including the North Atlantic Treaty Organization (NATO); and

(5) encourages the President to communicate to the Government of Albania, to all political parties and candidates in Albania,

and to the people of Albania the high importance attached by the United States Government to this parliamentary election as a central factor in determining the future relationship between the United States and Albania.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 17, 2005, at 10 a.m., to conduct a hearing on ''Examining the Current Legal and Regulatory Requirements and Industry Practices for Credit Card Issuers with Respect to Consumer Disclosures and Marketing Efforts.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 17, 2005, at 10 a.m., on Port Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Tuesday, May 17 at 9:30 a.m. to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 17, 2005 at 9:30 a.m. to hold a hearing on the Commission on Africa report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Tuesday, May 17, 2005, at 9:30 a.m., for a hearing entitled ''Oil For Influence: How Saddam Used Oil to Reward Politicians and Terrorist Entities Under the United Nations Oil-for-Food Program.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 17, 2005 at 2:30 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE AND NUCLEAR SAFETY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Tuesday, May 17, 2005 at 9:30 a.m. to conduct a closed hearing regarding nuclear security. Only Members and staff with Top Secret security clearance are able to attend. The Hearing will be held in S–407 in the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CITIZENSHIP SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, Border Security and Citizenship and the Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on ''The Need for Comprehensive Immigration Reform: Strengthening Our National Security'' on Tuesday, May 17, 2005 at 2:30 p.m. in Dirksen 226.

Witness List

Panel I: the Honorable Asa Hutchinson, Chair of the Homeland Security Practice, Venable, L.L.P., Former Under Secretary for Border and Transportation Security, Department of Homeland Security, Washington, DC; Margaret D. Stock, Assistant Professor of Law, United States Military Academy, West Point, NY; and Mark Reed, Border Management Strategies, LLC, Tucson, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RETIREMENT SECURITY AND AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Retirement Security and Aging, be authorized to hold a hearing during the session of the Senate on Tuesday, May 17, 2005 at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mrs. BOXER. Mr. President, I ask unanimous consent Patty Skuster, a fellow in my office, be granted the privilege of the floor for the remainder of the proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

HISTORIC HAVANA MEETING OF ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA

Mr. McCONNELL. Mr. President, I ask unanimous consent the Foreign Relations Committee be discharged from further consideration, and the Senate now proceed to S. Res. 140.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 140) expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 140) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 140

Whereas on May 20, 1902, the Republic of Cuba obtained its independence;

Whereas in the spirit of Jose Marti, many of the future leaders of a free Cuba have called for a meeting of the Assembly of the Civil Society in Cuba, an organization that consists of over 360 dissident and civil society groups in Cuba;

Whereas, on May 20, 2005, the Assembly to Promote the Civil Society in Cuba seeks to convene a historic meeting in Havana on the 103rd anniversary of Cuban Independence; and

Whereas the Assembly to Promote the Civil Society in Cuba will focus on bringing democracy and liberty to the island of Cuba: Now, therefore, be it

Resolved, That the Senate—

(1) extends its support and solidarity to the participants of the historic meeting, in Havana, of the Assembly to Promote the Civil Society in Cuba on May 20, 2005;

(2) urges the international community to support the Assembly and its mission to bring democracy and human rights to Cuba;

(3) encourages the international community to oppose any attempts by the Cuban government to repress, punish, or intimidate the organizers and participants of the Assembly; and

(4) shares the pro-democracy ideals of the Assembly to Promote the Civil Society in Cuba and believes that the Assembly and its mission will advance freedom and democracy for the people of Cuba.

RECOGNIZING THE CONTRIBUTION OF TIM NELSON AND HUGH SIMS IN DETAINING ZACARIAS MOUSSAOUI

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 144, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 144) recognizing Tim Nelson and Hugh Sims for their bravery and their contributions in helping the Federal Bureau of Investigation retain Zacarias Moussaoui.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 144) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 144

Whereas Tim Nelson called the Federal Bureau of Investigation's (FBI) Minneapolis Office at 8:30 am on Wednesday, August 15, 2001;

Whereas Hugh Sims called the FBI's Minneapolis Office at 9:30 am on Wednesday, August 15, 2001;

Whereas their calls set into motion the only United States criminal prosecution, so far, stemming from the attacks on our Nation on September 11, 2001;

Whereas on April 22, 2005, Zacarias Moussaoui pled guilty to 6 counts of conspiracy to commit terrorism on September 11, 2001; and

Whereas according to FBI officials, the actions of these 2 courageous and greathearted men may have saved thousands of lives and preempted a possible attack on the White House: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Tim Nelson and Hugh Sims should be recognized for their bravery and their contributions in helping the Federal Bureau of Investigation detain Zacarias Moussaoui;

(2) the United States is grateful to Tim Nelson and Hugh Sims for their heroism; and

(3) we, as a nation, should continue to follow their example as we fight the war on terror.

ORDERS FOR WEDNESDAY, MAY 18, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 18. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President and Members of the Senate, tomorrow morning the Senate will begin consideration of the nomination of Priscilla Owen to be U.S. circuit court judge for the Fifth Circuit. We will debate the nomination throughout the day tomorrow. I encourage Members who wish to speak on the nomination to come to the Senate during tomorrow's session.

I talked to the Democrat leader about the structure of the debate, and he will accommodate Members who desire to make statements. I encourage Senators to contact cloakrooms if they would like to speak on the nomination. We look forward to the debate on Priscilla Owen, and we hope all of the Members will participate.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. If there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order at the conclusion of the remarks of the distinguished Senator from Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

ENERGY

Mr. ALEXANDER. Mr. President, the matter of giving the President an up-or-down vote on his judicial nominees or, more accurately, giving the country an opportunity for any President to have what every President has always had, a chance for the full Senate to have an up-or-down vote on his nominees, is a matter of great importance to our country. It is not the only business before the Senate. I would like to speak for a few minutes about natural gas prices and prices at the pump and how, at a time when China and India are buying up oil reserves around the world, we make sure that we have plenty of energy.

We spend, in this country, about $2,500 per person on energy per year. We are about to have a big debate and discussion in the Senate about how much we spend on energy in the future. The Senator from Louisiana was here a few minutes ago. She made an excellent address. She summed up some of what happened today in the Senate Energy Committee. It was a very good meeting. At one time, virtually every member of the Senate Energy Committee was present, even though the purpose of the meeting was simply for us to make opening statements and to take initial action on a few relatively noncontroversial matters. That is because all of us understand how important it is.

It is also because Chairman DOMENICI and Ranking Member BINGAMAN, who are from New Mexico, have worked unusually hard in creating a framework so that we could have a significant piece of legislation. To those outside the Senate, that may sound like a lot of ''inside baseball,'' but it is not. It is crucially important for the Republican majority to have listened, as Senator DOMENICI and the rest of us have over the last several months, to the views and attitudes of the Democratic minority and vice versa.

What is happening in the Energy Committee is no accident. Senator DOMENICI, at the beginning of the year, told the Republican members of the committee that as he looked back over the last session of Congress and saw our failure as a Congress to grapple with this question of high prices at the gas pump, high prices for natural gas, which are driving manufacturing jobs overseas, which are raising costs for farmers, which are making it hard to heat and cool our homes, he decided he wanted to operate in a little bit different way. So we have. In a way, it is a good thing that we didn't pass an energy bill last year because this one ought to be a lot better, a lot more aggressive, and a lot bolder.

The situation is more urgent. We have a better bipartisan framework, and we have learned a lot in the last year. Senator DOMENICI and Senator BINGAMAN have cochaired large conferences on coal and natural gas, so Senators themselves and key staff members could learn about the newest technologies and could understand the facts about what are a very complex set of considerations so we are better prepared.

I especially compliment the Senator from Louisiana. She mentioned the Americans Outdoors Act that she and I introduced together again yesterday. We introduced it in the last session of Congress. She has worked on major parts of it for the last 6 years. But basically it picks up a principle that was a part of President Reagan's Commission on Americans Outdoors which I chaired 20 years ago. It sought to create a steady stream of reliable funding for conservation purposes, specifically the Land and Water Conservation Fund, for city parks, for wildlife, for enjoyment by soccer players, by duck hunters, by walkers, by most Americans.

The idea is, if we are going to drill for gas and oil and use up some of our assets, we ought to take a part of that and use it and put it back as an asset. If there is an environmental burden, there ought to be an environmental benefit. That is a very simple idea.

She and I call it a ''conservation royalty,'' and it is our hope to persuade a majority of the Senate, which we believe is conservation minded, that a majority of Americans—and we know there is a conservation majority in the United States—want us to help them have more places to enjoy themselves outdoors.

I look forward to working with her on that and the conservation royalty.

Mr. President, let me put the meeting Senator DOMENICI chaired in the Energy Committee in this context. A couple weeks ago, I had a private letter from GEN Carl Steiner. He is a real American hero. He was head of the special forces, a very brave man. He wrote to remind me that September 11 was a big surprise, but it should not have been. During the 1980s and 1990s, there were terrorist attacks on American interests around the world and in our country itself. If we had paid attention, General Steiner reminded me, we would not have been surprised on 9/11.

The next big surprise in this country will be to our pocketbooks. But it doesn't have to happen. If we pay attention, we already know we have the highest natural gas prices in the industrialized world. Three or 4 years ago, we had the lowest natural gas prices in the industrialized world. Today we have the highest. We know gas at the pump is at record levels for our country. We know China and India are increasing their demand for energy. We know that because of high prices, manufacturing jobs are moving overseas, farmers are taking a pay cut, and consumers are paying too much to heat and cool their homes.

We can avoid this next big surprise—the one to our pocketbooks—by passing an energy bill in the next few weeks that lowers prices, cleans the air, and reduces dependence upon foreign oil. To keep our standard of living, our goal must be to aggressively conserve and to aggressively produce an adequate, reliable supply of low-cost, American-produced, clean energy.

Some may say, why the emphasis on clean energy? Isn't that over in the clean air debate in the Environment and Public Works Committee? Well, yes, it is, jurisdictionwise. They may have jurisdiction on clean air. That is the problem. But the Energy bill has the solution to the clean air problem. We are not going to have clean air just by passing a bunch of caps on things. We are going to have it by transforming the way we produce energy in this country.

Senator BINGAMAN and Senator DOMENICI, as I mentioned earlier, have worked hard to produce a bipartisan framework to accomplish the goal I just described. But the danger is still that we will be too timid and we will compromise our differences and produce a bill that doesn't do much. That is why Senator JOHNSON and I introduced the bipartisan Natural Gas Price Reduction Act of 2005 a few weeks ago. According to a preliminary analysis by the American Council for an Energy Efficient Economy, our act would yield four times the natural gas savings or production of last year's energy bill. In other words, our bill would make up seven of the eight TFC of America's projected shortfall in natural gas by 2020. That is one way to lower natural gas prices.

I suggested this morning—and some members of the committee seemed to respond well to the idea—that we think of this legislation we are beginning to work on in the Senate as the ''clean energy act of 2005.'' Along with some of my colleagues, I support legislation to reduce carbon and other pollutants in our air. But none of these caps on pollution will do the job. None will produce an adequate supply of low-cost, reliable, American-produced, clean energy. The only way to do that is, first, aggressive conservation and, secondly, to aggressively transform the way we produce energy.

In writing our bill, we have to keep in mind what the Finance Committee of the Senate will do with the tax part of this bill. Some of this Energy bill will be in the Environment and Public Works Committee, some of it is in our Energy Committee, and some of it is in the Finance Committee—the tax part. So it all eventually will come together to the floor, where I am sure there will be even more amendments.

But the reason—in our deliberations this week and next week in the Energy Committee we have to keep in mind what the Finance Committee is doing—is we have limited resources. This is not going to be a $30 billion bill. Our Budget Committee says the Energy bill will be an $11 billion bill over the next 5 years. That is what it will cost in direct spending and tax credits. The administration hopes it will be even smaller—an $8 billion bill. We won't lower prices if we spend our money on more tax credits to oil companies, and we will not lower prices if we continue current policies and spend $3.7 billion over the next 5 years, or nearly one-third of what the administration wants us to spend, on building giant windmills that produce puny amounts of high-cost, unreliable power, and destroy the landscape. We don't need a national windmill policy; we need a national clean energy policy.

It is important for us to know what the tax committee is doing because it is important for us to know, as I mentioned, that, for example, if the tax committee continues its production tax credit for so-called renewable energy—$3.7 billion over the next 5 years of the $8 billion or $11 billion we have is gone, and we don't have it to build clean coal gas plants, for credits for hybrid cars, for credits for new nuclear—the things that will make a difference for us. Of that $3.7 billion, 70 percent of it will be spent on windmills. So current policies would say, if we have $8 billion or $11 billion to spend—the total we have to spend on energy—we would spend a large part on these giant windmills, which raise prices, only work 20, 25, or 30 percent of the time, are being abandoned in many countries that started using them, and absolutely destroy the American landscape, because they are 100 yards tall, wider than jumbo jets, make noise up to a half a mile away.

Here are some of the specific steps I believe we should take to conserve and transform production. Many of these proposals are in the Alexander-Johnson legislation we introduced a few weeks ago. Several have been incorporated in Chairman DOMENICI's draft before our committee. Here are a few examples in the areas of conservation, first, and in the area of transforming production:

In conservation, consumer education. A 4-year national consumer education program to reduce the demand for energy, tailored after the successful California program, could avoid energy consumption of about 20 powerplants over 4 years.

Efficiency standards. Higher appliance and equipment standards for natural gas efficiency could save the equivalent of 24 1,000-megawatt powerplants by 2020.

Cogeneration. Regulatory relief enabling manufacturers to more easily produce their own power and steam from a single source would save money and energy and reduce pollutants.

Efficient electricity generation. Incentives to encourage utilities to utilize their natural gas plants based on efficiency—we call that efficient dispatch—to increase their efficiency as much as 40 percent. In plain English, there are old natural gas plants and there are new natural gas plants. The new ones use a lot less natural gas than the old ones to produce the same amount of power. Using gas from the new ones first would save a lot of gas.

Oil savings. Last session of Congress, the Congress adopted a plan Senator LANDRIEU and I recommended to direct the administration to come up with a plan that would reduce by 1 million barrels per day by 2015 our use of gasoline.

Senator JOHNSON and I in our legislation suggest the administration adopt a plan to reduce gasoline use by 1.75 million barrels per day. This would save enough gasoline to equal twice the anticipated production from the Arctic National Wildlife Refuge.

And finally, in terms of conservation, another important idea is support for hybrid and advanced diesel vehicles. Most of this will have to come from the Finance Committee. But the National Commission on Energy Policy, which a lot of us have been reading, both Democrats and Republicans, ''A Bipartisan Strategy to Meet America's Challenges,'' has a number of excellent ideas in it.

One of them is $1.5 billion over 5 years in manufacturer and consumer incentives for domestic production and purchase of efficient hybrid electric and advanced diesel vehicles. Hybrid vehicles use about 60 percent of the gasoline conventional vehicles use. The Commission wisely suggested that we have some loan guarantees or tax credits. We might do the loan guarantees in our own legislation in the Energy Committee to help make sure those hybrid vehicles and clean diesel vehicles are built in the United States.

The other area in which we need to move boldly, and I hope we will, is in transforming the way we produce energy. At the head of the list has to be nuclear power. There is a lot of talk in this body about global warming and carbon. Mr. President, 70 percent of the carbon-free energy we produce in the United States comes from nuclear power. Again, Seventy percent of the carbon-free energy we produce in the United States comes from nuclear power. And in the next 5, 10, 15 years, if we are serious about global warming, reducing the amount of carbon in the air and setting an example for the rest of the world to do the same, we will appropriate at least $2 billion for research and development and loan guarantees to help start at least two new advanced technology plants.

We have not built a new nuclear powerplant in America since the 1970s. TVA, the Tennessee Valley Authority, fortunately, is reopening Browns Ferry, one of its plants. This will basically be a new plant. Yet France produces 80 percent of its power using nuclear energy. Japan builds a new nuclear powerplant every year. Our Navy operates 70, 80, 90 nuclear vessels. I guess the number is classified; I do not know the exact number. They have never had one single, not one single accident with those reactors since the

1950s. Yet here we are, the most scientifically advanced nation in the world, worried about air pollution, worried about the need for low-cost, reliable supply of power, many are worried about global warming and carbon in the air, and we have not built a new nuclear powerplant since the 1970s. We should start.

The second best hope for transforming our way of producing a low-cost, reliable supply of American-produced energy is coal. We need a national coal gasification strategy. Again, both Democratic and Republican Members have been studying this very carefully. I suggest $2 billion in loan guarantees for the deployment of six coal gasification plants by 2013 and $2 billion for industrial applications of coal gasification.

Clean coal gasification, very simply, is taking coal, of which we have plenty, hundreds of years of supply, and turning it into gas and making electricity from it, either in freestanding powerplants or letting industries do that to produce their own power as, for example, Eastman does in Kingsport, TN.

Next we should focus on carbon capture and sequestration from coal plants. Coal gasification eliminates most of the problems we have with mercury, nitrogen, and sulfur, but it still produces carbon. If we could find a way to capture that carbon and put it away somewhere, sequester it, we would have created right there, in addition to nuclear power, a way to have a fairly permanent supply of low-cost, reliable, adequate American-produced energy.

That technology is not mature yet, but we need a research program to demonstrate commercial scale carbon capture and geological sequestration at a variety of sites as well as research to reduce capital costs of processes to sequester carbon. That is also one of the recommendations of the National Commission on Energy Policy.

As many leading environmental groups have pointed out, coal gasification and carbon capture is the best strategy for the rest of the world. Even if we clean up our air, even if somehow we limit our production of carbon, if China, India, and Brazil build hundreds and hundreds of dirty coal plants around the world, it will not matter what we do because the air goes around the world, and we will end up breathing it, too.

So it is urgent that we move ahead with advanced nuclear technology and with advanced coal gasification and carbon capture and sequestration, not just for us, but in hopes that the rest of the world will adopt our technology and, therefore, make our air safer and cleaner and make us less dependent on foreign oil.

We need to increase our supply of domestic natural gas, and there are specific ways in the Alexander-Johnson legislation to do that. I hope the Senate bill adopts those ideas.

No. 1, we should provide the Department of Interior with the legal authority to issue ''natural gas only'' leases. Some of the oil companies are saying, ''What do you do if you find oil?'' We are not the experts; they are. If the State of Virginia or North Carolina, or some other State prefers to look for natural gas, I would like for them to have that option, and today the Secretary does not have that option.

No. 2, we should instruct the Department of Interior to draw the State boundary according to established international law between Alabama and Florida regarding lease 181 and lease portions of it not in Florida by December 31, 2007.

That may sound very technical, but here is what that means. The Secretary should draw the State line out into the water, which should have been done years ago. The part that is in Florida can't be drilled on because of the moratorium. The part that is in Alabama could be. Some estimates say 20 percent of the natural gas that is produced in the Gulf of Mexico over the next several years could come from that new part of lease 181 in Alabama. That would lower natural gas prices.

Finally, it allows States to selectively waive the Federal moratoria on offshore production and collect significant revenues from such production.

If Tennessee had a coastline—I know Georgia does—but if Tennessee had one, here is what I would do. I would put some gas rigs so far out in the ocean that nobody could see them. I would take that money and I would put it in an endowment of Tennessee colleges and universities so they would be the best funded and gradually the best colleges and universities in America. Second, I would take the rest of the money and I would lower taxes.

That would be a pretty good platform for a Governor. I wish I could do it in Tennessee, but maybe a Governor of New Jersey or Georgia or Florida or Virginia will want to do that. I think they should have that option.

Finally—I said finally, but one other thing on domestic natural gas. We should take part of these revenues from offshore drilling and create a conservation royalty. That royalty would be equally shared by all the States in the Land and Water Conservation Fund and wildlife grants. We should take that money and invest it in conservation so an environmental burden becomes an environmental benefit.

There are a couple of other things I would specifically like to mention. We are going to have to temporarily increase the foreign supply of natural gas. We have no option if we want lower natural gas prices. We do that by streamlining the permitting of facilities for bringing LNG from overseas to the United States. We need to give the Federal Energy Regulatory Commission exclusive authority for siting and regulating LNG terminals while still preserving States' authorities under the Coastal Zone Management Act, Clean Water Act, and the Clean Air Act. Renewable power is an important part of what we ought to do. Regarding solar power, the production tax credit now in the law for solar power really isn't enough to make solar power a viable option. We should increase that over the next several years. We should adopt the work that many Democrats, and President Bush, and many Republicans have worked on to encourage hydrogen fuel cell initiatives.

We should require that FERC grant or deny a terminal pipeline application within 1 year. We should clarify the permitting processes for pipelines and natural gas storage facilities.

These are specific steps. They are aggressive steps. But they are the kind of steps we need to take.

I make these remarks, as I said at the beginning, because Senator DOMENICI and Senator BINGAMAN, both of whom have been here for a long time, have worked pretty hard to give us a chance to have the right kind of clean energy bill. I believe the American people expect us in the Senate to know that natural gas prices are driving jobs overseas and are raising prices for farmers. They expect us to know they are having a hard time affording the cost of gasoline. They expect us to take steps to do something about it. Only the steps like the ones I have mentioned will create a true Clean Energy Act of 2005. Only steps like these will produce adequate conservation and adequate supply of reliable, low-cost, American-produced, clean energy. Only steps like these will lower prices and save the United States from the next big surprise: The surprise to our pocketbooks because we failed to prepare for the oncoming energy crisis.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow morning.

Thereupon, the Senate, at 6:33 p.m., adjourned until Wednesday, May 18, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 17, 2005:

COMMODITY FUTURES TRADING COMMISSION

REUBEN JEFFERY III, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2007, VICE BARBARA PEDERSEN HOLUM, TERM EXPIRED.

REUBEN JEFFERY III, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION, VICE JAMES E. NEWSOME, RESIGNED.

DEPARTMENT OF ENERGY

JAMES A. RISPOLI, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT), VICE JESSIE HILL ROBERSON, RESIGNED.

DEPARTMENT OF STATE

LINDA JEWELL, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ECUADOR.

JOHN F. TEFFT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GEORGIA.

DEPARTMENT OF LABOR

CHARLES S. CICCOLELLA, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING, VICE FREDERICO JUARBE, JR., RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN R. LORENZ, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD S. KRAMLICH, 0000

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

KATHRYN C. DUNBAR, 0000

EXTENSIONS OF REMARKS

NIGERIA SHOULD WITHDRAW TROOPS FROM THE REPUBLIC OF CAMEROON

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. GRAVES. Mr. Speaker, today, I would like to share with my colleagues a situation that has been brought to my attention.

President Obasanjo of Nigeria promised several years ago to withdraw his troops from the Bakassi Peninsula in The Republic of Cameroon. It has not yet been done. As the President of the African Union, Obasanjo has an obligation to set an example for the rest of the African nations.

President Obasanjo should withdraw Nigerian troops from the Bakassi Peninsula and return the Bakassi Peninsula to the Republic of Cameroon.

RECOGNIZING THE CAREER AND ACCOMPLISHMENTS OF RAY MARBLE

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SIMPSON. Mr. Speaker, I rise today to honor a friend and colleague who will retire on June 10 after years of service to the federal government and the Idaho National Laboratory. For the last ten years, Ray Marble has represented the Idaho National Laboratory in Washington DC. Before that, Ray had a distinguished career at the Federal Energy Regulatory Commission, the Department of Energy, the Energy Research Development Agency and the U.S. House of Representatives. As a staff member, Ray worked for three Members of Congress, J. Kenneth Robinson, John ''Jack'' O. Marsh, and Carlton Sickles.

Ray Marble is a consummate professional who builds goodwill and trust wherever he goes. Ray is a gentleman known all over Washington for his kindness and tact. As a Washington representative of the Idaho National Laboratory (INL), Ray has helped keep me, my staff, and the rest of the Idaho congressional delegation fully informed of events and issues at the lab. Ray always provides crisp, succinct information delivered with insight and perspective—and he is a pretty darn good golfer to boot. The INL will lose a great advocate and asset when Ray Marble retires.

Beyond the work relationship that many of us have with Ray, we also know him as a friend. Ray is uniquely gifted in his ability to connect with people on a personal level. He is genuinely concerned about the welfare of the people with whom he works and, in return, people around Washington are genuinely interested in him. I am proud to say that Ray has been a friend of mine over the past six years—and I know several of my colleagues feel the same way.

I want to wish Ray and his wife Martha all of the best as they head off to North Carolina for new adventures and new challenges. I know a few rounds of golf are on Ray's to-do list and I hope he enjoys his well-deserved retirement.

THE ADMINISTRATION'S MOST RECENT HYPOCRISY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. STARK. Mr. Speaker, the pot is calling the kettle black. The Administration is chastising Newsweek magazine for a story containing a fact that turned out to be false. This is the same Administration that lied to the Congress, the United Nations and the American people by fabricating reasons to send us to war. The same Administration responsible for the death of over 1,500 American servicemen and women and countless Iraqi civilians; the same Administration which shields its highest officials from responsibility for prisoner abuse at Abu Ghraib and Guantanamo Bay.

Under those circumstances, how can the Bush Administration, with a straight face, denounce a journalist for not checking all the facts before going public with a story?

Of course, Newsweek should have checked the facts more diligently before publishing their article. They made a big mistake. But, Mr. Speaker, we must keep this incident in perspective. Newsweek did make a mistake, but they had the dignity and honor to own up to it.

Unfortunately, I doubt the Bush Administration is capable of displaying such honesty. Instead, the Bush Administration focuses on public relations tactics to divert attention from their own incompetence and fabrications rather than focusing their energies on creating a plan to get our troops out of Iraq.

The hypocrisy of this Administration is astonishing and this most recent episode is, unfortunately, merely one example of many. Just yesterday Secretary of Defense Rumsfeld said in reference to the Newsweek article, ''People lost their lives. People are dead. People need to be very careful about what they say, just as they need to be very careful about what they do. ''I couldn't agree more. People should be very careful about what they say and do; President Bush and his Cabinet, most of all.

Mr. Speaker, accountability and power cannot be separated. If the President accepts the duties and responsibilities of his office he must do exactly what he is asking Newsweek to do: he needs to tell Americans the truth about his own indiscretions in this tragic war.

RECOGNIZING THE NATIONAL ASPHALT PAVEMENT ASSOCIATION'S 50TH ANNIVERSARY

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. FORD. Mr. Speaker, I am pleased today to commemorate the 50th Anniversary of the founding of the National Asphalt Pavement Association. NAPA was established on May 17, 1955.

For half a century, NAPA has worked tirelessly in representing its members and advancing new asphalt technologies to make our roads and highways last longer and safer for the motoring public. Since 1955 and over the next fifty years NAPA has pioneered groundbreaking research through its National Asphalt Pavement Research and Education Foundation that has revolutionized the manufacturing of asphalt.

NAPA and its members have also invested in America's future by helping to finance the education of future professionals in the construction industry. Through its research and education foundation, NAPA has awarded nearly 800 students with scholarships to support their undergraduate and postgraduate education.

NAPA members also sponsored the Smithsonian Institution's new transportation exhibition, America on the Move with a generous donation of $1 million. This permanent exhibition at the National Museum of American History is designed to show how America's roads and highways transformed the nation from the 1890's to present day.

An interesting sidebar to the exhibition is the story of the genuine asphalt pavement used in one of the displays. The pavement was fabricated off-site by a NAPA member, Superior Paving Corp., Virginia, and allowed to weather before installation in the exhibit.

I also went to extend congratulations to the employees of Lehman-Roberts Company from Memphis, Tennessee. Lehman-Roberts Company was a founding member of NAPA and its current President, Richard C. Moore, Jr., is also NAPA's 2005 Chairman of the Board. Lehman-Roberts Company has deep roots in Tennessee. The company was established in 1939 and currently employs sixty people.

NAPA and its members should be very proud of its accomplishments over the last fifty years. Our road system which NAPA's members helped to build is the foundation from which our economy could not thrive without. Fifty years after the creation of the Interstate Highway System we can now say, ''Mission accomplished.'' The Interstate Highway system has been built.

However more work needs to be done. We need to rehabilitate and reconstruct the pavements, many of which have exceeded their original design life. We also see ever-increasing congestion and mix of passenger vehicles with trucks on our roadway system that has

led to serious safety issues and unnecessary loss of life.

Fifty years after the advent of the Interstate Highway System, it is time for us to plan a freight and highway policy that will create a new vision for the future. I know NAPA and its members will rise to this challenge and are committed to securing our nation's future for the next fifty years.

HONORING THE CAREER OF RICK HENRY

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor the career of Mr. Rick Henry, an exemplary leader in music education in the state of Colorado who is retiring after over thirty years of faithfully teaching Colorado's young people how to enrich their lives with music.

Rick was born in Greeley, Colorado, raised in Longmont and graduated from Longmont High School. He earned his Bachelor of Arts and Masters Degree in Music Education from the University of Northern Colorado.

Rick subsequently taught music in the St. Vrain Valley School District in Longmont, Colorado, also in Grants, New Mexico, and at Berthoud High School in Berthoud, Colorado, before settling into his 21 year career as Director of Bands at Thompson Valley High School in Loveland, Colorado.

Under Mr. Henry's leadership, the band program received numerous Superior ratings in Concert, Jazz and Marching Band competitions. In 2004, the Thompson Valley High School Marching Band had the exciting opportunity to perform for over 500,000 people in the St. Patrick's Day Parade in Dublin, Ireland.

Rick has been a member of the Greeley and Boulder, Colorado Philharmonic Orchestras and also played with the Fort Collins Symphony Orchestra in Fort Collins, Colorado. He currently performs in Colorado and Southern Wyoming with the "Touch of Brass Quintet" and the "Modernaires Dance Band." Rick is an active member of Colorado Bandmasters Association, National Association for Music Education, and the International Association for Jazz Education.

Mr. Rick Henry has truly been a "Leader of the Bands" and has touched the lives of literally thousands of high school students with his unique way of inspiring and mentoring them over his many years of teaching, As Rick retires from a thirty year career, I am very proud to say that he leaves behind a rich legacy of strong music programs and inspired students—a worthy history for a fine man.

I invite my fellow colleagues in congratulating and honoring Mr. Rick Henry.

IN TRIBUTE TO NITA CORRÉ FOR HER LIFETIME OF CARING

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to recognize a true visionary, whose lifetime of caring has brought comfort to hundreds of older adults in my district. Nita Corré, longtime President of the Milwaukee Jewish Home and Care Center, currently presides over the Jewish Home and Care Foundation. For 35 years, Nita Corré has endeavored to envision and institute new models of care for older adults.

Nita Corré's interest in the needs of older adults was awakened when she lived in Philadelphia, and served her husband's synagogue congregation by visiting elderly residents of nursing homes. Dismayed by the dispiriting conditions in many of these facilities, Nita Corré reflected on the alternative models of care she had witnessed growing up in Spain. Thus began her lifetime commitment to improving the quality of care for senior citizens.

Older adults in the Fourth Congressional District have been the main beneficiaries of her commitment and passion. Beginning as a social work intern at the Milwaukee Jewish Home, she joined the professional staff in 1969 and was appointed the Home's director in 1978. Thanks to her efforts, the Milwaukee Jewish Home has become the model for elder care. Care facilities across the country have adopted many of the innovative programs she pioneered at the Milwaukee Jewish Home, which created new paradigms for supporting elders with dementia and providing companionship for elders facing the end of life.

Not only did she design these programs, Nita Corré has been a tireless champion for their replication. She is nationally recognized as a gifted trainer, an energetic leader and a compassionate manager.

It has been said that the moral test of a society is how it treats those who are in the dawn of life—the children, those who are in the twilight of life—the elderly, and those who are in the shadows of life—the sick, the needy and the handicapped. Nita Corré's life's work has been to attend to those in the twilight and the shadows, to shed light on their needs and find new ways to address their challenges. I am grateful to Nita Corré for her commitment to our elders and honored to recognize her for this Lifetime of Caring.

IN RECOGNITION OF DR. SANTOKH SINGH TAKHAR

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. CARDOZA. Mr. Speaker, it is with the greatest pleasure that I rise today to honor my friend, Dr. Santokh Singh Takhar. Affectionately known by many as Toki, I would like to take this opportunity to recognize his 40 years of dedicated service to our community as a local veterinarian, long-time Democrat, and endearing friend to many.

Born and raised in India, Toki came to the United States as a young man through the efforts of his aunt and uncle, Dr. and Mrs. G. S. Sahi who were residents of Livingston, California. Upon arriving in Merced County, Toki began his pursuit of education as a student at Modesto Junior College. He soon after continued on to California State University—Fresno, and ultimately, University of California—Davis Veterinarian School. After years of hard work and study, Toki began his career as a veterinarian on June 6, 1963.

During a return visit to India in 1969, Toki met his wife of 35 years, Amrit Clare. They married on January 11, 1970 and have since resided in Hilmar, California. In addition to Toki's veterinarian practice, he and Amrit have become successful almond farmers on land that includes the property once owned by Toki's aunt and uncle nearly four decades ago. In addition to maintaining a successful veterinarian office and productive almond orchards, the Takhars have raised two accomplished children. Their son Clare Takhar currently resides in Turlock with his wife Amy and their daughter Sydney Clare Takhar. Clare serves as a Paramedic/Firefighter in Alameda County and Amy is a local school teacher. The Takhar's daughter Simrin Takhar has established her career with the California Association of Health Facilities.

Throughout his life, Toki has remained an active participant and supporter of Democratic politics. His passion for political involvement stems from his admiration of the late President John F. Kennedy. His commitment to his civic duty sets the standard that all Americans should strive to achieve. As he enters this new phase of his life, Toki can certainly be proud of all that he has represented and accomplished. After 40 years of dedicated work, I would like to offer him my sincerest best wishes for many years of fulfillment as he continues in life as a Democrat, a farmer, and devoted husband, father and grandfather.

It is my honor and privilege to join Toki's family and friends in recognizing his lifetime of service to the community of Hilmar and congratulate him on his retirement. Our community benefits greatly from the splendid example that he has set as a local veterinarian and distinguished member of the Hilmar community. I ask all of my colleagues to join me in offering Dr. Santokh Singh Takhar best wishes for continued success and happiness in the years ahead.

PAYING TRIBUTE TO THE CLARKSTON NEWS' 75TH ANNIVERSARY AND THE JAMES AND HAZEL SHERMAN FAMILY'S 50-YEAR NEWSPAPER OWNERSHIP CAREER

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the accomplishments of The Clarkston News for the newspaper's 75 years of publication and the celebration of the 50th anniversary of the James and Hazel Sherman family career as newspaper owners and publishers.

The Oakland County, Michigan, Clarkston News published its first edition on Sept. 23, 1929, just one month before the nation's historic stock market crash. James Sherman purchased The Clarkston News in 1966. It has since become the largest newspaper in the Sherman Publications Inc. Group. Published weekly since 1929, uninterrupted, The Clarkston News in the truest sense of community journalism, serves as a mirror of the community, preserving the community history and people in its pages. The paper has been recognized by numerous awards from such groups as the Michigan Press Association.

While James Sherman has retired, and his wife Hazel has passed away, the Sherman family continues to operate The Clarkston News, The Oxford Leader, The Lake Orion Review, and Ortonville-Goodrich area's The Citizen. The group also publishes three weekly ''shoppers'' guides, two in Oakland County and one in southern Lapeer County.

The three Sherman children who grew up in the business are owners today, sharing supervision of day-to-day operations; and James Sherman continues, even in retirement, to delight readers by writing his popular weekly column, ''Jim's Jottings.''

The Shermans are part of the very fabric of life in their communities, deeply appreciated as community leaders who help local causes, contribute to local charities, and employ local residents.

Mr. Speaker, I ask my colleagues to join me in honoring the commitment and achievements of The Clarkston News on its 75th anniversary and the James and Hazel Sherman family on the occasion of their 50th anniversary in the community newspaper business. They are truly deserving of our respect and admiration.

MAX LYON—DIRECTOR OF TRANSPORTATION FOR THE FAIRBANKS NORTH STAR BOROUGH

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to note the passing of a fine man, longtime Alaskan Max Lyon. Max was from Fairbanks, where he was the Director of Transportation for the Fairbanks North Star Borough. In this job, Max managed transportation and environmental issues for the Borough. He loved his job and did it well; he will be badly missed by his many friends and coworkers in Fairbanks.

Max was born in 1947 in Owosso, Michigan, but he grew up in DeKalb, Illinois. He was an avid sportsman. He enjoyed hunting, fishing, and flying, and was a life member and Board President of the Tanana Valley Sportsmen's Association. He was a devoted husband and father, a community leader, and a good friend to many long-time Fairbanksians.

Before becoming an Alaskan, Max served his nation honorably in Vietnam. Immediately after graduation from high school, Max enlisted in the U.S. Air Force and was trained as a jet-engine mechanic. He was sent to Viet Nam where he was stationed at DaNang Air Base. During his tour in Viet Nam, Max volunteered his time to teach English to Vietnamese students and was known as ''Teacher'' to many of them. He received an honorable discharge in 1969.

That year, Max went to work in Sycamore, Illinois, where he met his future wife, Diane Leonhard. They married on May 16, 1970. In 1973, Max went to work for American Transit, which in 1977 sent him on a temporary assignment to Fairbanks to establish their first city transit system. That was the company's big mistake. Max and Diane fell in love with Alaska, and at the end of the 18-month assignment, Max resigned from American Transit and stayed in his adopted home for the rest of his life.

Over the next several years, Max worked as a mechanic and service manager on heavy duty trucks and then went to work for Dixon's Gun Shop. In 1982, Max bought the gun shop and owned it until 1985, when he sold it to build his dream house, a log home overlooking Fairbanks.

The Borough hired Max as Assistant Transportation Director in 1989, and he soon was promoted to Transportation Director, a job he held under several Borough Mayors until his untimely death this past weekend. Max was a member of the Elks, the Veterans of Foreign Wars, and was a life member of the National Rifle Association.

Max loved the outdoors. It was what drew him to Alaska and kept him here. He loved his hunting and fishing camp near Kobuk, in interior Alaska; he spent as much time there in the Spring and Fall as he could. He also loved Baja California, where he planned to spend the winter months during a richly deserved retirement. He had just broken ground on a new house there.

Most of all, Max loved his family—his wife, Diane; his children Kristine and Andrew; his grandchildren Jordan and Jack; his mother Marlene; and his siblings Terry, Tim, Peggy, Cheryl, Robin, and Melissa. Lu and I send our deepest sympathies to them in their hour of loss. We hope they are comforted by the memory of Max's very full life, and of his many friends and admirers. I consider myself one of them.

URGING ALBANIAN AUTHORITIES TO HOLD FREE AND FAIR ELECTIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SMITH of New Jersey. Mr. Speaker, today, I am introducing a concurrent resolution which calls for the July 3 parliamentary election in Albania to be free and fair. Joining me in the introduction of this resolution is Mr. ENGEL, and I want to thank my colleague from New York for his efforts over the years to help Albanians throughout Southeastern Europe be able to exercise human rights and fundamental freedoms that for so long had been denied them.

This resolution notes that Albania is a participating State of the Organization for Security and Cooperation in Europe, better known as the OSCE. It further notes that all OSCE participating States have accepted standards which define free and fair elections but that Albania has repeatedly fallen short of those standards. Some elections have been seriously flawed, while others demonstrated a clear and sometimes significant improvement.

As Albania approaches its next parliamentary elections on July 3, however, the resolution argues that meeting OSCE election standards is not only possible but a virtual necessity.

Meeting these standards is possible, fortunately, because Albanian authorities and political parties have adopted electoral reforms recommended by the OSCE. While Albanian stakeholders made the right and sometimes difficult decisions regarding reform, credit also needs to go to the OSCE Presence, or field mission, in Albania which facilitated the dialogue and encouraged cooperation, as well as the OSCE's Office for Democratic Institutions and Human Rights which provided technical expertise to the reform effort. The OSCE was patient yet firm in pressing for change, while other international groups gave needed expertise.

Meeting these standards is necessary not only because Albania is committed to those standards, but also because a failure to do so will cost the country dearly in terms of integration into NATO and the European Union. While there are strong ties between the United States and Albania, which this resolution recognizes, it would be a mistake to excuse Albania from its OSCE commitments.

Our desire to see Albania succeed, in fact, is why our expectations regarding the elections need to be made so clear. Successful elections will certainly strengthen Albania's ties with the United States and Europe. More importantly, successful elections are something the people of Albania deserve. After centuries of foreign rule, decades of severe communist repression and isolation, and now more than a decade of transition hindered by official corruption, organized crime and civil strife, the people of Albania must finally be allowed to determine their own future by making their leaders accountable to them. Free, fair elections can make this possible.

Mr. Speaker, I hope that my colleagues agree and will therefore support this resolution. As Co-Chairman of the Helsinki Commission, I have focused on the situation in Albania for many years, and I am confident that sending the message contained in this resolution will make a difference.

HONORING DOMINIC H. FRINZI, NEW PRESIDENT OF THE NATIONAL ITALIAN AMERICAN BAR ASSOCIATION

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to recognize and offer congratulations to Dominic H. Frinzi upon his installment this Saturday as president of the National Italian American Bar Association, an organization created in 1983 with the intent of advancing the interests of the Italian American legal community and improving the administration of justice.

A first generation American born of Sicilian parents, Mr. Frinzi has led a highly successful career as a Wisconsin attorney for over 50 years, while also making substantial contributions to Milwaukee's Italian American community. He has served as president of Milwaukee's Italian Community Center for a record five terms, and has also served as president of UNICO National, an Italian American civic organization, as well as the UNICO Foundation, Inc. and UNICO's Milwaukee Chapter. Additionally, Mr. Frinzi currently serves as Corrispondente Consular, or Correspondent Consul, to the Consul General of Italy in Chicago, the Honorable Eugenio Sgró, providing assistance to Italian Americans on legal matters involving the Italian government.

The son of a butcher, and among the first in his father's family to forego this family business in 400 years, Mr. Frinzi nearly became a

Catholic priest instead of a lawyer. However, just months before completing seminary, he left to pursue law school. Since then, he has tried cases in every county in the state of Wisconsin, and has served as a Milwaukee County Court Commissioner for over 50 years.

Mr. Frinzi has received many high honors during his career, including the Justinian Society's Justinian Man of the Year Award, the Italian Community Center's Theodore Mazza Community Service Award, the Milwaukee Ethnic Council's Vision for Milwaukee Award, the Fraternal Order of Eagles' Italian Person of the Year Award, and UNICO National's Dr. Anthony P. Vastola Gold Medal Award for service.

In 2002, because of his tremendous accomplishments as an Italian American, Mr. Frinzi was knighted by the Italian government, receiving the title Cavaliere all'Ordine del Merto della Repubblica Italiana, or Knight of the Order of Merit.

Mr. Speaker, I ask all of my colleagues to join me in congratulating an outstanding Italian American jurist, community leader, and prominent Milwaukee citizen, Mr. Dominic Frinzi, on his achievements as he takes on the role of president of the National Italian American Bar Association. We in Milwaukee are truly blessed to have him as our neighbor and look forward to his many additional civic and professional contributions in the years to come.

HONORING CANDY GARDNER

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. GONZALEZ. Mr. Speaker, I rise today to honor Candy Gardner, a longtime resident of San Antonio, whose family has woven itself into the fabric of our city over their four generations of residence. As leaders of the Temple Beth-El, they have worked tirelessly to improve the lot of the members of their congregation and those throughout the city. And, Candy has been no different as she has volunteered in a number of different capacities at Temple Beth-El and in San Antonio. In recognition of her efforts, on May 18, 2005 the Honors Committee of the Temple Beth-El Sisterhood will name Candy the 2005 Or Tamid for her countless hours of hard work in the Temple and our community.

A beautiful tradition stretching from the beginnings of Western civilization, Judaism is a faith built on works. It is the duty of every Jew to make a more perfect world not only for their family and immediate world but the larger community as well, and Candy's actions have been guided by this credo. Candy has devoted countless hours to the Sisterhood as the VP of Advancement of Judaism, VP of Human Relations, and President. She has also served as the committee chair for Publicity, Program, Docents, Oneg Shabbats, Yearbook, and Needlework Group. Moreover, in addition to her responsibilities as the Courtesy Chair and the Women's Torah Study Chair, Candy proofs the Bulletin, the publication of Temple Beth-El, and the Yom Kippur Book of Remembrance, and even leads docent tours of the Temple which is fitting since she rewrote the docent guidebook after the congregation moved back into the finished building.

However, I do not want to create the impression Candy limits her efforts to the Temple as she has served as President of the Any Baby Can Alliance, San Antonio Chapter of ORT, and School Class Acts. Also, she has been vital in fostering the arts in our city as a Friend of the McNay Museum, and a member of the San Antonio Symphony League. Of course, Judaism has long advocated for and supported the enrichment of our existence that art can provide, and her efforts have aimed to ensure San Antonio would not be without this vital sustenance.

As dedicated as Candy has been to building and strengthening the institution of Temple Beth-El, she has also worked to deepen her own understanding of Judaism and also to help others better know the Tanakh. Her devotion to continuing education embodies another central tenet of Judaism, that of constant investigation and reexamination in order to better understand the tradition as it has developed and progressed through the centuries. I laud this dogged pursuit of knowledge and enlightenment since it can strengthen the impulse to invest one's life in helping others. Candy's life is certainly living proof of this dynamic.

Of course, Candy is a wife, a mother, and a grandmother, the latter a job she considers the best of all. I imagine her family is proud that her years of dedication are being recognized as she receives this award. I am also proud to know that San Antonio is home to a person relentless in her mission to make it a better place.

IN HONOR OF PAIGE PETERSON

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. FARR. Mr. Speaker, I rise today to honor Paige Peterson, an 11-year-old girl who passed away November 8th, 2004 after a long and valiant battle with cancer.

Like most 11-year-old girls, Paige Peterson loved to dress-up, dance, ride horses and spend time with her family and friends. But, unlike most little girls, Paige spent years battling neuroblastoma, an aggressive and deadly cancer.

Sustained by her extraordinary faith and spirit, Paige breathed life into the community of young cancer sufferers as a spokesperson for the Children's Hospice & Palliative Care Coalition. In her own words, she was proud to be a "guinea pig" in several clinical trails with the hope that one day one of these trials would find a cure for neuroblastoma.

Driven by her desire to proffer the message that "kids get cancer too," Paige met with First Lady Laura Bush, Congressman SAM FARR, Senator BARBARA BOXER, Senator DIANNE FEINSTEIN, and hundreds of other individuals and organizations across the country. In the end, she left behind a legacy of compassion and courage and a challenge to Congress to enact healthcare policies which honor the unique needs of children with life-threatening conditions and their families, thus enabling children like Paige to live well and die gently surrounded by those they love.

Mr. Speaker I wish to honor this young girl for her strength and courage in battling this ill-fated disease and speaking about her experience in order to generate positive change for future young cancer sufferers. Her attitude and goodwill have proven to be an example for us all. I join Paige's mother Suzanne Peterson, her father Scott Peterson, and members of the Children's Hospice & Palliative Care Coalition in honoring and remembering this heroic girl for her achievements.

CONGRATULATIONS TO GIVEN KACHEPA FOR BEING NAMED ONE OF AMERICA'S TOP TEN YOUTH VOLUNTEERS

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. MARCHANT. Mr. Speaker, I rise to commend Given Kachepa, a Grapevine High School senior, for being named one of America's top ten youth volunteers by the Prudential Spirit of Community Awards. He was selected from a field of over 20,000 youth volunteers from across the country.

Given is an advocate for victims of human trafficking. An orphan at age 9 in his native Zambia, he was recruited two years later to sing in a boy's choir on an overseas tour. He was promised a salary and education, and that the money raised from the tour would be used to build schools in Zambia. None of these promises, however, were met.

For over a year and a half, Given and his fellow choir members performed six or seven times a day, sometimes with little food. After being saved by U.S. immigration authorities, Given used his own experience to help with the widespread human trafficking problem. He has educated the public through the media, and spoken about human trafficking at conferences, along with local and national law enforcement agencies.

I am proud to recognize Given for this high honor; he is well deserving of the award. The future of America is in good hands with leaders like him.

FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT

SPEECH OF

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes:

Mr. SKELTON. Mr. Chairman, H.R. 1544, the Faster and Smarter Funding for First Responders Act is critically important for the entire country, but it is also good for rural America. I am pleased to share my support for this bill, which streamlines and prioritizes homeland security spending and should result in better stewardship of America's tax dollars committed to public safety.

Last year, the 9/11 Commission made clear to Congress that homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.

H.R. 1544 fulfills the recommendations of the 9/11 Commission by providing priority assistance to first responders facing the greatest threat; by streamlining terrorism preparedness grants; and by requiring specific, flexible, and measurable goals for State and local government terrorism preparedness.

As a member of the Congressional Rural Caucus, I am especially interested in how rural areas will be treated under this legislation.

Currently, rural America does not receive its fair share when it comes to the distribution of homeland security funds. H.R. 1544 will ensure that rural Americans have a seat at the table when federal spending decisions are made. For the first time, tax dollars will be distributed to first responders based on risk, regardless of whether the potential dangers are in urban, suburban, or rural communities.

Under this legislation, each State shall develop a 3-year Homeland Security Plan. The State must solicit comments from local and county governments—including those in rural areas—and evaluate risk factors, threats, populations, and all critical infrastructure. Risks to Missouri's Fourth Congressional District might include agriculture and agribusiness, natural gas pipelines, Bagnell Dam, Truman Dam, the Lake of the Ozarks, and the Missouri River, among others.

H.R. 1544 allows for rural Missourians to prevent, prepare for, and respond to future terrorist attacks under a risk-based formula. Additionally, this measure maintains a State minimum for funding to ensure that each State can reach at least a minimal level of preparedness.

Mr. Chairman, H.R. 1544 is supported by every major first responder organization and by the State of Missouri. I urge my colleagues to vote in favor of this important, risk-based legislation.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. GRAVES. Mr. Speaker, Monday, May 16, 2005, I was unavoidably detained and thus missed rollcall votes No. 171, No. 172, and No. 173. Had I been present, I would have voted "yea" on rollcall No. 171, H.R. 627, to designate the Linda White-Epps Post Office; "yea" on rollcall No. 172, H. Res. 266, supporting the goals and ideals of Peace Officers Memorial Day; and "yea" on rollcall No. 173, H.R. 2107, modifying the authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund.

MARKING THE 50TH YEAR OF ST. ANTHONY'S ''FREE FISHERMAN'S BREAKFAST''

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SIMPSON. Mr. Speaker, I rise today to pay tribute to a dedicated group of sportsmen, merchants and citizens who have reached an important milestone as they celebrate the 50th year of the Free Fisherman's Breakfast. On May 27, 2005, from 6 a.m. until 2 p.m., volunteers will serve pancakes, sausage, bacon and eggs, hash browns, coffee, milk and juice to more than 5,000 people at Clyde Keefer Memorial Park in St. Anthony, Idaho.

Volunteers join together each year to continue the tradition which began near the opening of fishing season in May of 1955. The St. Anthony Chamber of Commerce and the Sportsmen's Association came up with the idea to try to draw fishermen into town on their way to their favorite fishing hole. The idea grew from just coffee and doughnuts to a full free breakfast, served faithfully each year despite rain, wind, snow and floods.

Informational booths were added in the park for guests to enjoy as they wait in line to be served. Many local, state, and national elected officials take advantage of the opportunity to visit with friends and supporters. Each year fishermen come from all over the state, as well as adjoining states, to renew old friendships and make new ones. An outstanding community member is honored each year.

Mr. Speaker, I would like to congratulate everyone who has been involved in the "Free Fisherman's Breakfast" over the years and join them this month as they commemorate its 50th anniversary. I have enjoyed socializing at this event in the past and will be looking forward to it in the future. I wish the City of St. Anthony well as they continue this great hometown tradition.

CONGRATULATING CHARLOTTE AMALIE HIGH SCHOOL ON REGAINING THEIR ACCREDITATION FROM THE MIDDLE STATES ASSOCIATION OF COLLEGES AND SCHOOLS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to congratulate the principal, Ms. Jeanette Smith-Barry, and her team of dedicated individuals at the Charlotte Amalie High School in St. Thomas, U.S. Virgin Islands, on the occasion of their re-accreditation by the Middle States Association of Colleges and Schools. Their tireless efforts, hard work, dedication and faith have paid off and will truly make a difference in the future of our youth and of our Territory.

At a time when school districts around the country are faced with budget cuts and higher standards, our schools have to do more with less. The school's accreditation team comprised of administrators, parents, community and business leaders set a goal of obtaining re-accreditation by graduation date 2005 and achieved it.

Charlotte Amalie High School (CAHS) is the first of four public high schools in the U.S. Virgin Islands to regain the accreditation that was lost in 2002. Now their students will be able to compete as equals for college and university entrance as well as entry into the U.S. Air Force which will not consider any student from an unaccredited school.

Mr. Speaker, this year's graduation which will take place on June 5, 2005 will be a doubly joyous and celebratory occasion for the CAHS Class of 2005 who will receive their diplomas and also be able to finally and proudly say once again that they they received them from an accredited high school.

It is in appreciation of their efforts that I use this opportunity to commend the CAHS students, faculty, parents, administration, and their private sector supporters for their successful efforts in developing and executing a successful strategy for regaining accreditation. They are an example to all of us who strive to improve our community.

I am proud of their success and wish the entire CAHS family and the Class of 2005 continued success as they continue to "Excel Always."

IN MEMORY OF SENIOR BORDER PATROL AGENT TRAVIS W. ATTAWAY

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. BONILLA. Mr. Speaker, I rise today to pay tribute to a fallen hero—senior Border Patrol Agent, Travis W. Attaway of D'Hanis, Texas. Travis met an untimely death while serving our country and securing our Texas borders in the McAllen sector.

On September 19, 2004, days of harsh rain and a rising Rio Grande tragically interrupted what otherwise was a routine three-man patrol operation near Free Trade Bridge in Los Indios. When rushing waters capsized the 19-foot patrol boat, Travis and two other agents were ejected into the river's strong current.

At the young age of 31, Travis has marked history as a true American hero. He sacrificed his life to protect the citizens of this great nation. Today, we honor his memory and the memory of all our Fallen Law Enforcement Officers for National Police Week 2005.

100TH ANNIVERSARY OF FOUNDING OF CITY LAS VEGAS, NV

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. PORTER. Mr. Speaker, I rise today to recognize the 100th anniversary of the founding of the City of Las Vegas, Nevada.

Mr. Speaker, while all Americans have heard of Las Vegas, many may not be aware of the rich history we have in Southern Nevada. For instance, the City was named by Spanish traders traveling from New Mexico to California. These traders dubbed the area "Las Vegas" which means "the meadows".

The first settlement in the Las Vegas valley by Westerners was a fortified mission colonized by members of the Church of Jesus Christ of Latter-Day Saints.

Over the last century, Las Vegas has become the entertainment capital of the world, with world class hotels, gaming, entertainment, and outdoor activities for visitors of all ages.

In the 1990s, the population of Las Vegas boomed, making it the fastest growing metropolitan area in the country. A record-setting 40

million tourists visited Las Vegas in 2004 to enjoy our hospitality and entertainment.

Mr. Speaker, Las Vegas has much more to offer tourists then ''the Strip'' alone. Visitors from around the world appreciate such attractions as Red Rock Canyon, Lake Mead, and the Hoover Dam.

On May 15, 2005, and throughout all of 2005, Las Vegas is hosting a Centennial Celebration in honor of the 100th anniversary of the founding of the city. Las Vegas visitors and residents will join in the Centennial Celebration by participating in a variety of commemorative events including a centennial time capsule, an attempt to bake the world's largest birthday cake, a return of Helldorado Days (a Las Vegas tradition honoring the roots of the city in the Wild West), and a wedding ceremony with 100 couples.

Mr. Speaker, I moved to Nevada in 1978, and have seen Las Vegas change from a desert hideaway to a burgeoning metropolis where between five and seven thousand people move per month. However, what never ceases to amaze me is that despite the explosive growth that Las Vegas has experienced, it has never lost the small town appeal in which we Nevadans take so much pride. I am also constantly struck by the genuinely American nature of our community. We come from all over the world and all over the country to make up our community, and for that I am particularly proud to be here today.

When most people think of Las Vegas, visions of big hotels, casinos, and bad Elvis impersonators may come to mind. I conjure a different image—an image of the thousands of wonderful individuals who are Las Vegas.

Mr. Speaker, I congratulate the City of Las Vegas on its 100th Anniversary.

A TRIBUTE TO KEN AND CAROLE MARKSTEIN

HON. RANDY ''DUKE'' CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. CUNNINGHAM. Mr. Speaker, I rise today to recognize an outstanding couple in the 50th Congressional District for their commitment to public higher education in general, and for business education in particular.

Ken and Carole Markstein have pledged $5 million to the College of Business Administration at Cal State San Marcos. Their gift will be used to complete the new business college building by providing upgrades, furnishings, and technology; to assist in faculty recruitment and retention efforts; to provide scholarships for students; and to fund future program development. Their gift will greatly enhance the University's ability to serve the students and the local business community by enabling the College to provide the highest quality education possible and develop future programs responsive to the needs of the region. The College of Business Administration houses the largest number of students at Cal State San Marcos.

In 1974, Ken Markstein graduated from Cal State University at San Jose with a B.S. degree in Finance. After completing his degree, he joined Markstein Beverage Company as the Accounting/Computer Manager. In 1975, Ken became Vice President of Markstein Beverage Company Union City, and in 1976, he was promoted to Vice President/General Manager. In 1978 he moved to Markstein Beverage Company in Oakland as President and General Manager. In 1987, Ken and his brother purchased Mission Distributing in San Marcos, California, where he became President and CEO. Markstein Beverage Company is a wholesale beverage distributor, employing more than 120 employees, with 120 fleet vehicles and sales of approximately $50 million per year.

The Marksteins have been engaged with Cal State San Marcos for a large part of its short history. In 1991, they established one of the first scholarships for business students. In 1996, Ken agreed to serve on the Business College advisory board, and in 2002, agreed to become part of the university's Trust Board.

With the beginning of construction of the new business building and with the arrival of a permanent dean of the college, Ken and Carole began to see the importance of a strong program for business students being developed in their own backyard. In particular, they saw the need to recruit and retain outstanding business faculty, and began to talk to the university about ways in which they could make a significant difference to the business community in the region. When Ken's father, who had started the family business, died in 2004, Ken decided to use part of the inheritance in this way—to honor his father by helping the future of business professionals in North San Diego County.

Ken is not only a product of the Cal State System, but a believer—calling it ''the backbone of California's higher education.'' He believes in the goals of the university and in doing what he can to make those goals a reality.

Ken married his childhood sweetheart, Carole, in 1975, and they have two college-aged children. Like her husband, Carole is also part of the community and gives her time and talent to the establishment of the San Pasqual Academy—a residential campus for high school foster care adolescents.

On May 11, 2005, the California State University Board of Trustees unanimously voted approval of the recommendation,

Resolved, By the Board of Trustees of the California State University, that the business building (Building 13) at Cal State University San Marcos, be named Markstein Hall.

It is an honor for the business college to carry the family name of this outstanding, civic-minded couple, as it is for the 50th district to honor them today with these remarks to the CONGRESSIONAL RECORD.

ADOPTION OF MR. FÉLIX NAVARRO RODRÍGUEZ

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. ENGEL. Mr. Speaker, I rise to inform our colleagues about a very important bipartisan initiative to highlight the problem of Cuban political prisoners held by the totalitarian regime of Fidel Castro. To bring worldwide attention to this critical matter, many of my colleagues and I are adopting an individual Cuban political prisoner jailed by Castro.

Sadly, on this small island nation there are thousands of pro-democracy activists currently imprisoned in Cuba for exercising their most basic human rights. They have been jailed for speaking freely, worshiping freely, and assembling peacefully.

The Cuban prisoner I am adopting is Mr. Félix Navarro Rodríguez. Mr. Rodríguez is a 49-year-old member of the Partido por la Democracia Pedro Luis Boitel, the Pedro Luis Boitel Party for Democracy. On the evening of Tuesday, March 18, 2003 Félix was detained on his way home in the city of Perico in Matanzas. He was taken by more than a dozen State Security agents (Castro's political police) to his home where they subjected Mr. Rodríguez and his family to an exhaustive search that lasted late into the night. The agents seized a large amount of equipment, objects, and supplies. Everything from a computer to 12 plastic chairs including books, rope, videos, typewriters, blank paper, pencils and pens, and all the documents pertaining to the Party were taken. Félix was brought to the State Security compound in Matanzas where he was detained under charges of having ''received, among other things, leaflets and literature; the latter was proved by the confiscation of aggressive and corrosive writings and printed material from his house.''

The Cuban prosecution requested a 30-year prison sentence. On Thursday, April 4, 2003, Mr. Rodríguez—together with independent journalist and PDLB's secretary for International Relations Iván Hernández Carrillo—were subjected to an arbitrary and illegal summary trial, in the city of Matanzas and condemned to a 25-year prison sentence.

Félix Navarro Rodríguez was a Cuban educator for over twenty years. He taught both elementary and middle school. At the same time he was teaching he was also studying Physics and Astronomy. Because he refused to indoctrinate his students with communist rhetoric he was fired from his job. According to the official document released by the Municipal Board of Education, he was accused of ''treason against the revolution.'' As a result, he was detained and later sentenced to three years in prison for ''enemy propaganda'' of which he served 20 grueling months. As further punishment he was prohibited from completing his studies in Physics and Astronomy. Mr. Speaker, I too am a former teacher and believe that one of the most important jobs in my life, besides being a father, was teaching my students to think independently and express their views without fear of prosecution. I sympathize with Mr. Rodríguez's efforts to teach his students to think instead of teaching them the oppressive lessons of communism, and I commend him for his efforts.

Mr. Rodríguez's story is not uncommon in Cuba; in fact, political imprisonment has been a fact of life in Castro's Cuba for over four decades. Mr. Speaker, this has become a personal issue for me, as Fabio Freyre, the grandfather of a member of my staff, was imprisoned in solitary confinement for over one year for fighting against the revolution and the Castro Regime in the early 1960's. While this imprisonment took place over forty years ago, the conditions are the same as today. There are many Cubans fighting for their fundamental human rights who are being punished harshly on a daily basis. Like the others, it is clear that Félix Navarro Rodríguez does not belong in jail. He is a political prisoner being

held merely for trying to spread freedom and democracy to the Cuban people. I hope that he is one day freed from the shackles of oppression and that the Cuban people can have the opportunity to freely choose their leaders in a democratic system of political pluralism.

Mr. Speaker, what has made this Nation great is that since the signing of the Declaration of Independence, we have been a beacon of freedom and justice. American troops have shed blood confronting tyrants and dictators.

Our belief that there truly are inalienable rights does not end at our borders. We Americans believe that freedom and liberty are rights due all the people of Earth.

I hope to one day soon speak to Félix Navarro Rodríguez and congratulate him on his freedom and thank him for his commitment to justice and democracy.

TRIBUTE TO MR. PAUL QUINN

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. COSTA. Mr. Speaker, I rise today to read into the CONGRESSIONAL RECORD a tribute to my close friend, Mr. Paul Quinn, delivered by former Speaker of the House of Representatives, Tom Foley, on March 16, 2005 at the 13th National Gala of the American Ireland Fund.

They say that on St. Patrick's Day, the 33.7 million Americans who claim Irish ancestry swell to 80 million. As well they should!

And on St. Patrick's Day, we here in Washington celebrate the great day as only Washington can—politically. The Taoiseach pays a call on the President. The Speaker hosts them both at lunch. And the American Ireland Fund holds this dinner, as important a celebration as any of the others, and honors those who have made contributions in advancing peace and reconciliation in Ireland. Like the other events, it has its political side, but with a difference. Here we sometimes honor those whom not everybody knows, although we here know them well.

Tonight I have the honor to introduce a man whom few here can surpass in contributions to peace in Northern Ireland. And almost none of us could surpass him in avoiding praise. Because Paul Quinn keeps out of the limelight. He is one of the most effective advocates on the major policy issues of our times. He has been a tireless and effective friend of Ireland, but he leaves few tracks.

What has he done for Ireland? Twenty years ago, Paul was the first nongovernment figure to invite Northern Irish political leaders to Washington—not to make speeches, because who can stop the Irish from speaking?!

Paul hosted small, informal gatherings with officials, diplomats, legislators and interested Irish Americans to learn what was happening and to exchange views and hopes for an end to the violence we call the Troubles.

Paul was the first to bring John Hume and major Unionist leaders to Washington. He became a tireless lobbyist for peace through dialogue and non-violence. I know, because as Speaker I was frequently the target of Paul Quinn conversations on a brighter future for Northern Ireland.

If there is anyone in this city, from the White House on down, who can claim some small credit for the end of violence that now seems to prevail in the North, it is Paul.

Here at home, of course, he was also a long time Director of the American Ireland Fund, and the national chairman of this gala for many years. There is no Irish American initiative for justice and reconciliation in this city to which Paul has not given both time and strenuous effort. Like everything about which he cares deeply, Paul has made his passion for Ireland a family affair. Besides being a behind-the-scenes advisor to the Clinton Administration, there is brother Tom's service as a U.S. Observer to the International Fund for Ireland, a frequent topic of Paul's friendly lobbying.

Yet, there is always a dark side to every family. Paul and his brothers are Republican in the Irish sense, but there is also the fact, kept from elderly aunts and small children, that brother Gene is also Republican in the Washington sense. Tom believes this is what Paul's grandfather foresaw when he sometimes called the Quinn brothers—minus Paul—the ''unholy alliance.''

Besides looking after and reveling in his family—especially his two granddaughters—Paul also doubles as a very effective but unregistered agent for the Irish Tourist Bureau. Many a Senator or Member has asked his advice on where to go and what to see in Ireland.

That advice is rarely limited to political matters. Paul's single-minded determination to play every Irish golf course, his tireless promotion of University College Dublin—where he serves on the board of the Business School—and his limitless fund of stories recommend him as an all-purpose source of essential information.

Everything I have mentioned about Paul is known to many in this room tonight, but few have the whole picture. That is because life long modesty has masked Paul's dedicated commitment of time and treasure, quiet leadership and persuasive powers to the cause of peace in Ireland. Paul inherited great gifts from his Irish family—education, persistent application and a tradition of giving back—but he alone has applied them so effectively and quietly to the cause that we all share and celebrate tonight, as we honor Paul Quinn as a true champion for Ireland and for peace.

108TH ANNIVERSARY OF THE ROGERS BROTHER CORPORATION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. ENGLISH. Mr. Speaker, I rise today to recognize the one-hundredth anniversary of Rogers Brothers Corporation. Having a history filled with many innovative achievements, it is my hope to see this company continue on a path of growth and prosperity.

Located in Albion, Pennsylvania, in Pennsylvania's 3rd Congressional District, Rogers Brothers Corporation was founded by Charles, Louis and Hugh Rogers. They started out fabricating steel for bridges. In 1914, they built their first trailer for commercial use. The production of trailers would go on to become their hallmark. The business of trailer production grew with the continued development of the roadway system and World War I. During World War II, Rogers developed special "tank retriever" trailers for the federal government, earning the Army-Navy "E" Award for excellence in production. They also built a special trailer which was used in the Manhattan Project. Following the war, commercial trailers were further developed with the creation of the innovative Power Lift Detachable Gooseneck. Under the leadership of Betty Rogers Kulyk, and her husband John Kulyk, the company further developed their trailers, creating new and innovative designs for their customers.

Throughout their century in business, Rogers has overcome many challenging obstacles, including fires, the Great Depression, labor disputes, and a devastating tornado. However, the company has endured the test of time. In addition, it has remained a family-owned and operated business, a trait that makes them unique in the trailer industry. Today, Rogers trailers can be seen in all 50 states and in 65 countries around the world. The company enjoys an outstanding reputation among their customers, a 100,000 square foot facility, and a quality, all-American made product. Now solidly in its third generation, under the leadership of Lawrence and Mark Kulyk, the company looks to expand their customer and product base, and stay the course for the long haul.

America was founded on the principles of hard work and innovation. The very greatness of this Nation is tied to the entrepreneurial spirit of our people. The creativity and innovation of small business, such as Rogers, help to create the very pillars of our economy. Their many achievements and unwavering commitment to excellence in quality production is an outstanding tribute to the very ideals that we hold dear.

Mr. Speaker, I hope my colleagues will join me in congratulating the Kulyk Family and all of the hard working men and women at Rogers Brothers Corporation on their 100th anniversary.

IN DEFENSE OF 1,100 CLEVELAND, OHIO JOBS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. KUCINICH. Mr. Speaker, Today, I sent this letter in defense of 1,100 Cleveland, Ohio jobs as a result of the BRAC process:

MAY 17, 2005.

Chairman ANTHONY PRINCIPI,
Base Realignment and Closure Commission, Washington, DC.

DEAR CHAIRMAN PRINCIPI: Last week's announcement of the 2005 Department of Defense recommended BRAC closure list has inappropriately targeted the Cleveland area with over 1,100 jobs cuts. Cleveland currently suffers from a severe economic recession. Therefore I find the inclusion of these Cleveland facilities to be a substantial deviation from the selection criteria. These job losses are outrageous, unjust, and unfair.

Specifically, the BRAC list included the following cuts that directly affect the immediate Cleveland area: The Defense Finance and Accounting Service (DFAS) in Cleveland is scheduled to lose 1,028 jobs with approximately 175 jobs being spared, to protect the recent Lockheed Martin A76 privatization of the Military and Retired Annuitant Pay Services contract function. The jobs are being moved to DFAS facilities in Columbus, OH, Denver, CO, and Indianapolis, IN. (BRAC Report: Volume 1, Part 2 H&SA 37–39); The Glenn Research Center is also scheduled to lose 50 civilian military research jobs. The

Army Research Laboratory at Glenn is losing the Vehicle Technology Directorate to the Aberdeen Proving Ground, MD. (BRAC Report: Volume 1, Part 2 Tech—22); The Navy Reserve Center in Cleveland is scheduled to close and 25 jobs will be lost. (BRAC Report: Volume 1, Part 2 DoN–29).

As you know, the BRAC Commission has the authority to change the Department's recommendations, if it determines that the Secretary deviated substantially from the force structure plan and/or selection criteria. (Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005: Title XXVlIl–General Provisions: Subtitle C—Base Closure and Realignment: Sec. 2832. Specification of final selection criteria for 2005 base closure round.)

I believe the Department of Defense has clearly deviated from the selection criteria.

The Secretary is required to consider the economic impact on existing communities in the vicinity of military installations. (Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005: Title XXVIII-General Provisions: Subtitle C—Base Closure and Realignment: Sec. 2832. Specification of final selection criteria for 2005 base closure round.) The Department of Defense erroneously states that a 0.1% job loss within the Cleveland Metropolitan Statistical Area (MSA) has minimal economic impact.

However, the Department of Defense failed to take into account the current economic position of the Cleveland area. Cleveland has been labeled as the poorest city in the country today. Its poverty rate of 31.3 percent is the highest in the nation, according to the most recent Census Bureau data from 2003. (Places within United States: Percent of People Below Poverty Level in the Past 12 Months: 2003 American Community Survey Summary Tables: *http://factfinder.census.gov/servlet/GRTTable? bm=y&-geo id=16000US0820000&-*__box __head__nbr=R01&-ds__name= ACS__2003__EST__ G00__&-__lang=en&-format=US-32&-__sse=on) Cleveland's #1 ranking in poverty rate results from the significant job losses in the steel and manufacturing industries over the past several decades. These job losses continue. For example, the current 2006 budget recently passed by Congress would slash up to 700 high paying federal jobs at the NASA Glenn Research Center. The economy around Cleveland is stagnating.

Clearly, a 0.1 percent job loss for Cleveland is far more damaging than such a loss in another city with a better economic base. For example, the three cities scheduled to gain additional jobs from Cleveland's BRAC losses have poverty rates that are half to a third of Cleveland's. The poverty rates (and rankings) are 16.5 percent (35th), 13.6 percent (49th), and 12.6 percent (55th) for Columbus, Denver, and Indianapolis respectively. (Places within United States: Percent of People Below Poverty Level in the Past 12 Months: 2003 American Community Survey Summary Tables: http://factfinder.census.gov/servlet/GRTTable? bmy&-geo__ id=16000US0820000&-__box__head__nbr=R01&-ds__name=ACS__2003__EST__G00__&-__lang=en&-format=US-32&-__sse=on) This BRAC round will secure for the foreseeable future Cleveland's #1 poverty ranking.

This is clear evidence that closures of these facilities in the Cleveland area fall outside the criteria of the BRAC process. I therefore request the BRAC Commission to reverse the job losses in the Cleveland area.

Sincerely,

DENNIS J. KUCINICH,
Member of Congress.

RECOGNIZING THE RECIPIENTS OF THE 2005 ALL-AMERICA CITY CIVIC AWARDS

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to recognize Western New Yorkers whose leadership and service has earned them well-deserved recognition by the Buffalo & Erie County All America City Committee.

In 1995 the Greater Buffalo Region was chosen as one of ten communities nationally to receive the All-America City designation, a lifetime distinction.

Greater Buffalo's All America City Committee has as its 2004–2005 mission to: work with community leaders to strengthen Buffalo's national public image, promote the practice of "civic journalism" by the local media, prompt citizen involvement in their communities to build social capital and enhance community Democracy, and to develop resources to measure social capital and promote intersector civic capacity building activities in the region.

The Committee has recently named Jack Connors, president and publisher of Buffalo Business First; Samuel M. Ferraro, Niagara County Commissioner of Economic Development; Philip L. Haberstro, founder of the Wellness Institute of Greater Buffalo and the Belfast Summer Relief Program as this year's award winners, whose work embodies the spirit of the 2004–2005 mission.

I am proud to stand here today and recognize the many contributions of these great civic leaders who have played a significant role in making Greater Buffalo the fabulous All-America City it is.

TRIBUTE TO THE CALIFORNIA ARMY NATIONAL GUARD

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. BACA. Mr. Speaker, I rise today to pay tribute and welcome home true American heroes. In March of 2004, the soldiers of the 1st Battalion 185th Armor left their homes and families to spread the ideals of freedom and democracy to Iraq. They went, not because they had to, but because they chose to—choosing to restore a society and help a people with which they were unfamiliar.

Throughout the last year, these brave men and women were charged with improving the infrastructure of a new Iraq and building new water systems, roads and bridges. They were a part of history when they helped secure peace during the Iraq elections and have been instrumental in rebuilding relationships between the American and Iraqi people.

The commitment of our men and women in uniform to the ideals of liberty, freedom and peace never wavered. Their steadfast belief in themselves and our Nation remains a beacon of selflessness and sacrifice for all Americans.

For those who still defend our country and those who fight for the principles upon which this nation was founded, the 1st Battalion 185th Armor serves as an inspiration.

Their actions will forever stir our hearts and rouse our belief in the human spirit. It is because of this that we are grateful for their sacrifices.

Mr. Speaker, I am honored that I am able to recognize these American heroes and welcome them back. I hope that others will acknowledge our brave soldiers throughout the world.

CONGRATULATING IVANNA EUDORA KEAN HIGH SCHOOL ON REGAINING ACCREDITATION FROM THE MIDDLE STATE ASSOCIATION OF COLLEGES AND SCHOOLS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to congratulate the hard working and dedicated team at Ivanna Eudora Kean High School in St. Thomas, U.S. Virgin Islands on regaining their accreditation status from the Middle State Association of Colleges and Schools.

This has been a difficult year for the school in many respects, but strong leadership and team work have pulled them through. On Friday, May 13th, the principal of the high school, Sharon McCollum-Rogers, received word that the high school was re-accredited, which is a vindication of the principled but difficult stands they have taken together.

At a time when school districts around the country are faced with budget cuts and higher standards, our schools have to do more with less, the school's accreditation team comprised of administrators, parents, community and business leaders set a goal of accomplishing this task by graduation date 2005 and have pulled off a minor miracle.

Mr. Speaker, this year's graduation is a doubly joyous and celebratory occasion for Eudora Kean High School. In June, the graduating class will not only be able to proudly say that they have received their diplomas, but they can also once again say that they have received them from an accredited high school.

I applaud and commend the Eudora Kean High School students, faculty, parents, administration, and their private sector supporters for their unwavering efforts in developing and executing a successful strategy for regaining accreditation.

I am proud of their success and wish the Eudora Kean High School family and 2005 graduates continued success as they continue to "Strive for Success."

CONGRATULATIONS TO JACLYN EINSTEIN

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I would like to congratulate and honor a young Florida student from my district who has achieved national recognition for exemplary volunteer service in her community. Jaclyn

Einstein of Golden Beach was named one of the top honorees in Florida by the 2005 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each state, the District of Columbia and Puerto Rico.

Jaclyn, a junior at University School, is being recognized for raising more than $6,000 for organ transplants in a fund-raising walkathon, as part of an ongoing, multi-year effort on her part to promote organ donation. Not only did Jaclyn raise money for organ donation programs, but she also organized an assembly at her high school to recruit other students to walk with her. Combined, the students raised $6,200 for the University of Miami Transplant Foundation, winning a cruise that she then donated to an 18-year-old heart transplant recipient.

When asked what she hoped her efforts would accomplish, Jaclyn said, "It is my hope, ultimately, that numerous individuals in need will benefit trom receiving an organ transplant through my efforts."

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it's vital that we encourage and support the kind of selfless contribution this young citizen has made. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers like Ms. Einstein are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

The program that brought this young role model to our attention—The Prudential Spirit of Community Awards—was created in 1995 by Prudential Financial in partnership with the National Association of Secondary School Principals. The program seeks to impress upon youth volunteers that their contributions are critically important and highly valued, and to inspire other young people to follow their example. Over the past eight years, the program has become the nation's largest youth recognition effort based solely on community service, with more than 170,000 youngsters participating since its inception.

I heartily applaud Ms. Einstein for her initiative in seeking to make her community a better place to live, and for the positive impact she has had on the lives of others. She has demonstrated a level of commitment and accomplishment that is truly noteworthy in today's world, and deserves our sincere admiration and respect. Her actions show that young Americans can—and do—play important roles in our communities, and that America's community spirit continues to hold tremendous promise for the future.

HONORING REVEREND W. HENRY MAXWELL, SR.

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SCOTT of Virginia. Mr. Speaker, I rise today to honor Reverend W. Henry Maxwell, Sr., who is retiring from his role as Pastor of Ivy Baptist Church in Newport News, Virginia.

Reverend Maxwell served as pastor at Ivy Baptist for 37 years. In this position, he has been an extraordinary shepherd over a vibrant and growing flock. I have attended Sunday services at Ivy Baptist and seen his hand at work in his church and community. During his tenure, the Church established a Day Care ministry that has been a vital and thriving community resource for over thirty years. Under his leadership, the church outgrew its original building, and Reverend Maxwell oversaw the purchase of and transition to a new location. And seven years ago, not to rest on previous accomplishments, Reverend Maxwell spurred the construction of an additional wing to the current Church location, that the congregation saw fit to name the W. Henry Maxwell Family Life Center. Even though he officially retired December 31, 2004, Reverend Maxwell has graciously served as interim pastor while the church searched for his successor.

Through his counsel and mentorship, the Ivy Baptist family has produced successful businesspeople, local, state, and federal government workers, and 14 licensed ministers. Reverend Maxwell has worked tirelessly to improve the lives of his parishioners and the lives of all citizens in the church's Southeast Newport News community. His steadfast commitment to principle is well documented through his service on numerous associations, including a term as President of the Newport News Branch of the National Association for the Advancement of Colored People (NAACP).

His dedication to civic improvement is best illustrated through his work as a public servant. Reverend Maxwell represented citizens from the cities of Newport News and Hampton as both a member of the Virginia House of Delegates and the Virginia State Senate in a twenty-year political career. Reverend Maxwell spent much of his time and effort in the Virginia General Assembly addressing the various disparities faced by many of his constituents—the culmination of this effort being his work as an early proponent of diversity in the state judiciary. In his role as State Senator, Reverend Maxwell strove to make sure that the judiciary was comprised of judges more representative of the communities they served, and he has ensured that all Virginians who walk into a court feel that they have a fair chance of equal protection under the law.

I had the honor and privilege of serving with Reverend Maxwell in the Virginia General Assembly for nine years, and I have worked with him outside of the Assembly on many issues. Reverend Maxwell, as a humble servant of God, would balk at the accolades I have bestowed upon him, but I would be remiss if I did not say I consider him an ally, mentor, and friend.

On the occasion of his retirement, it gives me great pleasure to recognize and commend Reverend W. Henry Maxwell, Sr. for his service and dedication to the parishioners of Ivy Baptist Church and to the people of Newport News and Hampton, Virginia.

THE FILIBUSTER MUST BE SAVED

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening to pay homage to heroes of equality, justice, and tenacity in spirit. On May 17, 1954, the highest court in the country announced its decision that "separate educational facilities are inherently unequal." This opinion served to deny the legal basis for segregation in Kansas and 20 other States with segregated classrooms and effectively change the dynamics of race relations for the country.

While the dynamics were dramatically changed with that jurisprudence, the unequal treatment was not completely eradicated. Even today, we see the vestiges of bigotry and Jim Crow. For example, let me cite the recent status of the Senate 60-vote filibuster for judicial nominations and the disingenuous reference by certain members to the historic civil rights struggles of the 1950's and 1960's.

The filibuster, no matter how negatively it has been used in the past, remains a vital tool with which we as legislators protect the rights of the minority party. We will not forget the longest filibuster in Senate history in 1957 by Senator Strom Thurmond to thwart civil rights legislation from passage.

Senator Jesse Helms used the filibuster for years to block many highly-qualified nominees from North Carolina, including a woman and three African-Americans. Not one of these nominees received a vote from the Senate. Consequently, the seat remained open for over 6 years—until such time as Senator Helms could hand-pick someone to fill it. A recent national survey found that nearly 70 percent of Americans oppose eliminating filibuster, including many of those who even support the judges who are in question now.

The effectiveness of this tool must be preserved because it is the hallmark of the democratic process. Straight up-or-down votes on issues that affect the lives of vulnerable Americans will allow harsh and insensitive legislation to be forced onto these people at the whim of the majority party. In essence, allowing the filibuster to die on this matter will close the doors to many needy Americans for relief by way of legislation or the court system.

Overly restrictive legislation that has recently passed in the House such as the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, S. 256; the Class Action Fairness Act; Marriage Protection Act; the Pledge Protection Act; and others that propose to block access to the courts and to relief. At some level, it seems that some American people will experience a time when they will not have access to the federal courts and would be subject to adverse judicial scrutiny if they had that access. Eventually, this trend would lead to a less nationalistic America where residency in certain States will equate to legalization of disparate treatment.

Mr. Speaker, I submit that the filibuster must be saved in order to save the federal system and the notion of democracy. The fall of democracy will give rise to a government that can be represented as "the tyranny of the majority."

WE NEED TO ADDRESS THE QUESTIONS LOOMING IN IRAQ

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. CONYERS. Mr. Speaker, I rise today to bring to the attention of the American people

an editorial that raises the important questions regarding our uncertain course of action in Iraq. In particular, the author, New York Times columnist Paul Krugman, addresses the dilemma that looms in the not-so-distant horizon—do we increase the military effort or do we end it? He also brings to light the ''Downing Street Memo,'' which indicates a pre-war orchestration by the President and Prime Minister Blair to the point of cooking intelligence to meet the President's needs. Mr. Speaker, 87 of my colleagues and I sent the President a letter last week asking him to respond to these serious charges. We await his response.

STAYING WHAT COURSE?

(By Paul Krugman)

Is there any point, now that November's election is behind us, in revisiting the history of the Iraq war? Yes: any path out of the quagmire will be blocked by people who call their opponents weak on national security, and portray themselves as tough guys who will keep America safe. So it's important to understand how the tough guys made America weak.

There has been notably little U.S. coverage of the ''Downing Street memo''—actually the minutes of a British prime minister's meeting on July 23, 2002, during which officials reported on talks with the Bush administration about Iraq. But the memo, which was leaked to The Times of London during the British election campaign, confirms what apologists for the war have always denied: the Bush administration cooked up a case for a war it wanted.

Here's a sample: ''Military action was now seen as inevitable. Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and W.M.D. But the intelligence and facts were being fixed around the policy.''

(You can read the whole thing at www.downingstreetmemo.com.)

Why did the administration want to invade Iraq, when, as the memo noted, ''the case was thin'' and Saddam's ''W.M.D. capability was less than that of Libya, North Korea, or Iran''? Iraq was perceived as a soft target; a quick victory there, its domestic political advantages aside, could serve as a demonstration of American military might, one that would shock and awe the world.

But the Iraq war has, instead, demonstrated the limits of American power, and emboldened our potential enemies. Why should Kim Jong Il fear us, when we can't even secure the road from Baghdad to the airport?

At this point, the echoes of Vietnam are unmistakable. Reports from the recent offensive near the Syrian border sound just like those from a 1960's search-and-destroy mission, body count and all. Stories filed by reporters actually with the troops suggest that the insurgents, forewarned, mostly melted away, accepting battle only where and when they chose.

Meanwhile, America's strategic position is steadily deteriorating.

Next year, reports Jane's Defense Industry, the United States will spend as much on defense as the rest of the world combined. Yet the Pentagon now admits that our military is having severe trouble attracting recruits, and would have difficulty dealing with potential foes—those that, unlike Saddam's Iraq, might pose a real threat.

In other words, the people who got us into Iraq have done exactly what they falsely accused Bill Clinton of doing: they have stripped America of its capacity to respond to real threats.

So what's the plan?

The people who sold us this war continue to insist that success is just around the corner, and that things would be fine if the media would just stop reporting bad news. But the administration has declared victory in Iraq at least four times. January's election, it seems, was yet another turning point that wasn't.

Yet it's very hard to discuss getting out. Even most of those who vehemently opposed the war say that we have to stay on in Iraq now that we're there.

In effect, America has been taken hostage. Nobody wants to take responsibility for the terrible scenes that will surely unfold if we leave (even though terrible scenes are unfolding while we're there). Nobody wants to tell the grieving parents of American soldiers that their children died in vain. And nobody wants to be accused, by an administration always ready to impugn other people's patriotism, of stabbing the troops in the back.

But the American military isn't just bogged down in Iraq; it's deteriorating under the strain. We may already be in real danger: what threats, exactly, can we make against the North Koreans? That John Bolton will yell at them? And every year that the war goes on, our military gets weaker.

So we need to get beyond the clichés—please, no more ''pottery barn principles'' or ''staying the course.'' I'm not advocating an immediate pullout, but we have to tell the Iraqi government that our stay is time-limited, and that it has to find a way to take care of itself. The point is that something has to give. We either need a much bigger army—which means a draft—or we need to find a way out of Iraq.

CONGRATULATIONS TO SARAH MOELLER

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I would like to congratulate and honor a young Florida student from my district who has achieved national recognition for exemplary volunteer service in her community. Sarah Moeller of Davie was named one of the top honorees in Florida by the 2005 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each state, the District of Columbia and Puerto Rico.

Sarah, an eighth-grader at St. Mark Catholic School, is being recognized for organizing a clothing drive to collect suits and nice dresses for struggling Haitian immigrants to wear on job interviews and for special occasions. Sarah was inspired when she heard the pastor of St. Joseph's Haitian Mission speak at her school. Her clothing drive, ''PASS Along Your Sunday Best'' collected 130 complete outfits, which Sarah would sort, wash, mend, press and hang on hangers for distribution to Haitian immigrants.

When asked what she hoped her efforts would accomplish, Sarah said, ''I felt that in a small way I was bringing hope and happiness to people in need.''

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it's vital that we encourage and support the kind of selfless contribution this young citizen made. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers like Ms. Moeller are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

The program that brought this young role model to our attention—The Prudential Spirit of Community Awards—was created in 1995 by Prudential Financial in partnership with the National Association of Secondary School Principals. The program seeks to impress upon youth volunteers that their contributions are critically important and highly valued, and to inspire other young people to follow their example. Over the past eight years, the program has become the nation's largest youth recognition effort based solely on community service, with more than 170,000 youngsters participating since its inception.

I heartily applaud Ms. Moeller for her initiative in seeking to make her community a better place to live, and for the positive impact she has had on the lives of others. She has demonstrated a level of commitment and accomplishment that is truly noteworthy in today's world, and deserves our sincere admiration and respect. Her actions show that young Americans can—and do—play important roles in our communities, and that America's community spirit continues to hold tremendous promise for the future.

Daily Digest

HIGHLIGHTS

Senate passed H.R. 3, Transportation Equity Act.

The House passed H.R. 2360, Department of Homeland Security Appropriations Act for Fiscal Year 2006.

Senate

Chamber Action

Routine Proceedings, pages S5249–S5373

Measures Introduced: Seventeen bills and three resolutions were introduced, as follows: S. 1042–1058, S.J. Res. 19, S. Res. 144, and S. Con. Res. 34. **Pages S5300–01**

Measures Reported:

S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces. (S. Rept. No. 109–69)

S. 1043, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces.

S. 1044, to authorize appropriations for fiscal year 2006 for military construction.

S. 1045, to authorize appropriations for fiscal year 2006 for defense activities of the Department of Energy.

S. 1053, to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes. **Page S5300**

Measures Passed:

Transportation Equity Act: By 89 yeas to 11 nays (Vote No. 125), Senate passed H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, after taking action on the following amendments proposed thereto: **Pages S5256–82**

Adopted:

Reid (for Lautenberg) Modified Amendment No. 619 (to Amendment No. 605), to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol under aggravated circumstances. **Pages S5265–66**

Inhofe Amendment No. 605, to provide a complete substitute. **Pages S5265–66**

Rejected:

By 14 yeas to 86 nays (Vote No. 123), Allen/Ensign Amendment No. 611 (to Amendment No. 605), to modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code. **Pages S5256–57, S5264–65**

By 16 yeas to 84 nays (Vote No. 124), Sessions Modified Amendment No. 646 (to Amendment No. 605), to reduce funding for certain programs. **Pages S5266–67**

Withdrawn:

Inhofe (for Snowe) Amendment No. 706 (to Amendment No. 605), to specify which portions of Interstate Routes 95, 195, 295, and 395 in the State of Maine are subject to certain vehicle weight limitations. **Page S5254**

During consideration of this measure today, Senate also took the following action:

Inhofe Amendment No. 761 (to Amendment No. 605), previously agreed to on Monday, May 16, 2005, was modified, to make a technical correction, by unanimous consent. **Page S5257**

Civil Society in Cuba: Committee on Foreign Relations was discharged from further consideration of S. Res. 140, expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for Cuban people, and the resolution was then agreed to. **Page S5368**

Federal Bureau of Investigation: Senate agreed to S. Res. 144, recognizing Tim Nelson and Hugh Sims for their bravery and their contributions in

helping the Federal Bureau of Investigation detain Zacarias Moussaoui. **Pages S5368–69**

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a report relative to the continuation of the national emergency with respect to Burma; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM–10) **Page S5300**

Nominations Received: Senate received the following nominations:

Reuben Jeffery III, of the District of Columbia, to be a Commissioner of the Commodity Futures Trading Commission for a term expiring April 13, 2007.

Reuben Jeffery III, of the District of Columbia, to be Chairman of the Commodity Futures Trading Commission.

James A. Rispoli, of Virginia, to be an Assistant Secretary of Energy (Environmental Management).

Linda Jewell, of the District of Columbia, to be Ambassador to the Republic of Ecuador.

John F. Tefft, of Virginia, to be Ambassador to Georgia.

Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training.

1 Air Force nomination in the rank of general.

1 Marine Corps nomination in the rank of general.

A routine list in the Coast Guard. **Pages S5371–72**

Messages From the House: **Page S5298**

Measures Referred: **Page S5298**

Measures Placed on Calendar: **Page S5298**

Executive Communications: **Pages S5298–S5300**

Additional Cosponsors: **Pages S5301–02**

Statements on Introduced Bills/Resolutions: **Pages S5302–68**

Additional Statements: **Pages S5297–98**

Authority for Committees to Meet: **Page S5368**

Privilege of the Floor: **Page S5368**

Record Votes: Three record votes were taken today. (Total—125) **Pages S5365, S5267, S5281**

Adjournment: Senate convened at 9:45 a.m. and adjourned at 6:33 p.m. until 9:30 a.m., on Wednesday, May 18, 2005. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5369.)

Committee Meetings

(Committees not listed did not meet)

CAPITOL VISITOR CENTER

Committee on Appropriations: Subcommittee on Legislative Branch concluded a hearing to examine the progress of the Capitol Visitor Center, after receiving testimony from Alan Hantman, Architect of the Capitol; and David M. Walker, Comptroller General of the United States, Government Accountability Office.

APPROPRIATIONS: DEPARTMENT OF DEFENSE

Committee on Appropriations: Subcommittee on Defense concluded a hearing to examine proposed budget estimates for fiscal year 2006 for the Department of Defense, after receiving testimony from numerous public witnesses.

CREDIT CARDS

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the current legal and regulatory requirements and industry practices for credit card issuers with respect to consumer disclosures and marketing efforts, after receiving testimony from Senators Akaka and Feinstein; Edward M. Gramlich, Member, Board of Governors of the Federal Reserve System; Julie L. Williams, Acting Comptroller of the Currency, Department of the Treasury; Antony Jenkins, Citi Cards, Sioux Falls, South Dakota; Travis B. Plunkett, Consumer Federation of America, Edmund Mierzwinski, U.S. Public Interest Research Group, and Linda Sherry, Consumer Action, all of Washington, D.C.; Louis J. Freeh, MBNA Corporation, and Carter Franke, Chase Bank U.S.A., both of Wilmington, Delaware; Robert D. Manning, Rochester Institute of Technology, Rochester, New York; and Marge Connelly, Capital One Financial Corporation, Richmond, Virginia.

PORT SECURITY

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine measures that have been taken since September 11, 2001, to secure our nation's ports, focusing on the implementation of the Maritime Transportation Security Act and vulnerabilities that remain in the maritime transportation sector, after receiving testimony from Representative Ruppersberger; Robert M. Jacksta, Executive Director, Border Security and Facilitation, U.S. Customs and Border Security, Rear Admiral Larry Hereth, U.S. Coast Guard, and Richard L.

Skinner, Acting Inspector General, Office of Inspector General, all of the Department of Homeland Security; Margaret T. Wrightson, Director, Homeland Security and Justice Issues, Government Accountability Office; Jean Godwin, American Association of Port Authorities, Alexandria, Virginia; and Christopher Koch, World Shipping Council, Washington, D.C.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee began markup of proposed comprehensive energy legislation, focusing on provisions relating to Indian Energy, Department of Energy Management, and Personnel and Training, but did not complete action thereon, and will meet again tomorrow.

NUCLEAR SECURITY

Committee on Environment and Public Works: Committee concluded a closed hearing to examine nuclear security issues, receiving testimony from officials of the Nuclear Regulatory Commission.

COMMISSION FOR AFRICA

Committee on Foreign Relations: Committee concluded a hearing to examine the Commission for Africa, recommendations for a coherent strategy for African development and reform, after receiving testimony from former Senator Nancy Kassebaum-Baker, and Tidjane Thiam, Aviva, London, United Kingdom, both on behalf of the Commission for Africa; and Nancy Birdsall, Center for Global Development, Washington, D.C.

OIL FOR FOOD

Committee on Homeland Security and Governmental Affairs: Permanent Subcommittee on Investigations held a hearing to examine the United Nations' Oil-for-Food Program, the illegal surcharges paid on Iraqi oil sales, and the nature and extent of the 2003 Khor al-Amaya incident, receiving testimony from George Galloway, Member of Parliament for Bethnal Green and Bow, Great Britain; and Mark L. Greenblatt, Counsel, Dan M. Berkovitz, Counsel to the Minority, and Steven A. Groves, Counsel, all of the U.S. Senate Permanent Subcommittee on Investigations.

Hearing recessed subject to the call.

OLDER AMERICANS ACT REAUTHORIZATION

Committee on Health, Education, Labor, and Pensions: Subcommittee on Retirement Security and Aging held a hearing to examine the Administration's recommendations for the Older Americans Act Reauthorization, focusing on the National Family Caregiver Support Program, primary long-term care issues, and the aging population and workforce, receiving testimony from Josefina Carbonell, Assistant Secretary of Health and Human Services for Aging; and Emily DeRocco, Assistant Secretary of Labor for Employment and Training.

Hearing recessed subject to the call.

IMMIGRATION REFORM

Committee on the Judiciary: Subcommittee on Immigration, Border Security and Citizenship and the Subcommittee on Terrorism, Technology and Homeland Security held a joint hearing to examine strengthening our national security, regarding the need for comprehensive immigration reform, receiving testimony from Asa Hutchinson, Venable, LLP, Washington, D.C., former Under Secretary of Homeland Security for Border and Transportation Security; Margaret D. Stock, United States Military Academy, West Point, New York, on behalf of the American Immigration Lawyers Association; and Mark K. Reed, Border Management Strategies, LLC, Tucson, Arizona.

Hearing recessed subject to the call.

BUSINESS MEETING

Select Committee on Intelligence: Committee met in closed session to consider pending intelligence matters.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Measures Introduced: 33 public bills, H.R. 2385–2417; and 7 resolutions, H. Con. Res. 154–155, and H. Res. 280–282; 284–285 were introduced. **Pages H3433–35**

Additional Cosponsors: **Pages H3435–36**

Reports Filed: Reports were filed today as follows:

H. Res. 283, providing for consideration of the bill (H.R. 1817) to authorize approppriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes (H. Rept. 109–84). **Page H3433**

Speaker: Read a letter from the Speaker wherein he appointed Representative Lynn A. Westmoreland to act as Speaker Pro Tempore for today. **Page H3335**

Recess:

The House recessed at 9:10 a.m. and reconvened at 10 a.m. **Page H3336**

Department of Homeland Security Appropriations Act for Fiscal Year 2006: The House passed H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, by the Yeas and Nays: 424–1 (Roll no. 180). **Pages H3340–H3405**

Agreed to:

Musgrave amendment that increases funding for state and local programs in the Office of State and Local Government Coordination and Preparedness; **Page H3376**

Sabo amendment that increases funding for Firefighter Assistance Grants; **Pages H3376–79**

King of Iowa amendment that reduces and then increases funding for Immigration and Customs Enforcement salaries and expenses; **Page H3385**

Tom Davis of Virginia amendment (no. 2 printed in the Congressional Record of May 16) that will terminate the background check provision in the bill once the President selects a single agency to conduct security clearance investigations pursuant to the Intelligence Reform and Terrorism Prevention Act and Congress has been informed that the agency can conduct all necessary investigations in a timely manner or that the agency has authorized entities within the Homeland Security Department to conduct their own investigations; **Pages H3394–95**

Jackson-Lee amendment that prohibits the use of funds to patrol the U.S. border except as authorized by law; **Pages H3400–01**

Menendez amendment (no. 14 printed in the Congressional Record of May 16) that increases funding for state and local grant programs, intended to enhance the security of chemical plants (by a recorded vote of 225 ayes to 198 noes, Roll No. 176); and **Pages H3379–81, H3401–02**

Obey amendment that provides funds for grants to assist States in conforming with minimum drivers' license standards (agreed to limit the time for debate on the amendment) (by a recorded vote of 226 ayes to 198 noes, Roll No. 179). **Pages H3399–H3400, H3403–04**

Rejected:

Jackson-Lee amendment that sought to increase the funding for Citizenship and Immigration Services; **Pages H3373–76**

Poe amendment (no. 10 printed in the Congressional Record of May 16) that sought to prohibit the use of funds to carry out two provisions in the Aviation and Transportation Security Act (the request for a recorded vote was later vacated); **Pages H3395–97, H3398**

Tancredo amendment (no. 1 printed in the Congressional Record of May 16) that sought to prohibit the use of funds from being available to assist any State or local government that prohibits or restricts the free flow of information between local law enforcement units and the Bureau of Immigration and Customs Enforcement (point of order raised against the amendment was overruled) (by a recorded vote of 165 ayes to 258 noes, Roll No. 177); and **Pages H3393–94, H3402–03**

Meeks amendment that sought to prohibit the use of funds to close any detention facility operated by or on behalf of U.S. Immigration and Customs Enforcement that has been operational in 2005 (agreed to limit the time for debate on the amendment) (by a recorded vote of 199 ayes to 223 noes, Roll No. 178). **Pages H3397, H3403**

Withdrawn:

Souder amendment (no. 9 printed in the Congressional Record of May 16) that was offered and subsequently withdrawn that sought to provide for $6 million of the funds appropriated for the Office of the Secretary be used for the Office of Counternarcotics Enforcement; **Pages H3368–69**

Jackson-Lee amendment that was offered and subsequently withdrawn that sought to increase funding for Citizenship and Immigration Services; **Pages H3369–70**

LoBiondo amendment (no. 7 printed in the Congressional Record of May 16) that was offered and subsequently withdrawn that sought to increase funding for the Coast Guard's Deepwater program to replace aging vessels and planes; **Pages H3370–73**

LaTourette amendment that was offered and subsequently withdrawn that sought to eliminate funding for trucking industry security grants, intercity bus security grants, and intercity passenger rail transportation, freight rail, and transit security grants; and **Pages H3387–88**

Tiahrt amendment that was offered and subsequently withdrawn that sought to prohibit the use of funds to promulgate regulations without consideration of the effect of such regulations on the competitiveness of American businesses. **Pages H3397–98**

Point of Order sustained against:

Hostettler amendment that would have increased funding for Customs and Border Protection and for Immigration and Customs Enforcement; **Pages H3367–68**

Provision under the portion of the bill regarding Aviation Security, beginning at the colon on page 17, line 2 through the word "intent" on line 11, regarding the Government's share of the costs of airport projects; **Page H3386**

Provision regarding National Pre-Disaster Mitigation Fund beginning on page 36 line 19, the word "and" through line 22, the word "funds"; and **Page H3389**

Obey amendment that sought to increase funding for Customs and Border Protection, Immigration and Customs Enforcement, and the Federal Law Enforcement Training Center. **Pages H3398–99**

H. Res. 278, the rule, as amended, providing for consideration of the bill was agreed to by a recorded vote of 222 ayes to 185 noes and 2 voting "present", Roll No. 175. **Pages H3345–46**

Agreed to an amendment offered by Representative Sessions by voice vote, after agreeing to order the previous question on the amendment and the resolution by a yea-and-nay vote of 223 yeas to 185 nays, Roll No. 174. **Page H3345**

Presidential Message: Read a message from the President wherein he notified the Congress of the continuation of the National Emergency with respect to Burma—referred to the Committee on International Relations and ordered printed (H. Doc. 109–27). **Page H3405**

Committee Election: The House agreed to H. Res. 281, electing Representative Chocola to the Committee on the Budget. **Pages H3405–06**

Quorum Calls—Votes: Two yea-and-nay votes developed during the proceedings of the House today, and 5 Recorded votes developed during the proceedings of the House today and appear on pages H3345, H3346, H3402, H3402–03, H3403, H3404, and H3404–05. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 10:23 p.m.

Committee Meetings

HIGH SCHOOL REFORM

Committee on Education and the Workforce: Held a hearing entitled "High School Reform: Examining State and Local Efforts." Testimony was heard from the following Governors: W. Mitt Romney, Massachusetts; and Thomas Vilsack, Iowa.

EMPLOYER-SPONSORED HEALTH CARE

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a hearing entitled "Examining Pay-for-Performance Measures and Other Trends in Employer-Sponsored Health Care." Testimony was heard from public witnesses.

DRUG TESTING PROGRAMS SUBVERSION

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations held a hearing entitled "Subversion of Drug Testing Programs." Testimony was heard from Robert Cramer, Office of Special Investigations, GAO; Robert Stephenson, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services; and public witnesses.

In refusing to give testimony at this hearing, the following individuals: Dennis Catalano, President, Puck Technology; Michael Fichera, Health Choice of New York, Inc.; and Matt Stephens, President, Spectrum Labs, invoked Fifth Amendment privileges.

STATE AND LOCAL HOUSING FLEXIBILITY ACT

Committee on Financial Services: Subcommittee on Housing and Community Opportunity held a hearing on H.R. 1999, State and Local Housing Flexibility Act of 2005. Testimony was heard from Rudy Monteil, Executive Director, Housing Authority, Los Angeles, California; Renee Glover, Chief Executive Officer, Housing Authority, Atlanta, Georgia; Daniel Nackerman, Executive Director, Housing Authority, County of San Bernardino, California; and public witnesses.

FEDERAL FOOD INSPECTION PROGRAM; COMMITTEE BUSINESS

Committee on Government Reform: Subcommittee on Federal Workforce and Agency Organization approved for full Committee action the following bills: H.R. 994, To amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis

and to allow a deduction for TRICARE supplemental premiums; H.R. 1283, To provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities; and H.R. 1765, Generating Opportunity by Forgiving Educational Debt for Service Act of 2005.

The Subcommittee also held a hearing entitled ''Question: What Is More Scrambled Than an Egg? Answer: the Federal Food Inspection Program.'' Testimony was heard from Robert A. Robinson, Managing Director, Natural Resources and Environment, GAO; Robert E. Brackett, Director, Center for Food Safety and Applied Nutrition, FDA, Department of Health and Human Services; Merle Pierson, Acting Under Secretary, Food Safety, USDA; Jim Jones, Director, Pesticide Programs, EPA; and Richard V. Cano, Acting Director, Seafood Inspection Program, National Marine Fisheries Service, NOAA, Department of Commerce.

MIDDLE EAST—FOSTERING DEMOCRACY

Committee on Government Reform: Subcommittee on National Security, Emerging Threats and International Relations held a hearing entitled ''Fostering Democracy in the Middle East: Defeating Terrorism with Ballots?'' Testimony was heard from Mona Yacoubian, Special Adviser, Muslim World Initiative, United States Institute of Peace; and public witnesses.

OVERSIGHT—INTELLECTUAL PROPERTY THEFT IN CHINA

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on Intellectual Property Theft in China. Testimony was heard from Victoria Espinel, Acting Assistant, U.S. Trade for Intellectual Property; and public witnesses.

OVERSIGHT—INTELLECTUAL PROPERTY THEFT IN RUSSIA

Committee on the Judiciary: Subcommittee on Courts, Internet, and Intellectual Property also held an oversight hearing on Intellectual Property Theft in Russia. Testimony was heard from Victoria Espinel, Acting Assistant, U.S. Trade Representative for Intellectual Property; and public witnesses.

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FY 2006

Committee on Rules: Granted, by voice vote, a structured rule providing for the consideration of H.R. 1817, to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes. The rule provides for one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security. The rule waives all points of order against consideration of the bill. The rule provides that in lieu of the amendments recommended by the Committees of Homeland Security, Energy and Commerce, and the Judiciary now printed in the bill, the amendment in the nature of a substitute printed in part A of the Rules Committee report shall be considered as the original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute printed in part A of the Rules Committee report.

The rule makes in order only those amendments printed in part B of the Rules Committee report, which may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment or demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in part B of the Rules Committee report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Cox, Representatives Shays, Souder, Ehlers, Manzullo, Kennedy of Minnesota, Wamp, Thompson of Mississippi, Loretta Sanchez of California, Markey, Lowey, Norton, Jackson-Lee of Texas, Meek of Florida, Oberstar, Costello, Slaughter, Engel, Waters, Eddie Bernice Johnson of Texas, Maloney, Menendez, Stupak, Cummings, Kennedy of Rhode Island, Ford, Inslee, McCarthy of New York, Reyes, Israel, Lynch, Ruppersberger, Barrow, and Higgins.

MISCELLANEOUS MEASURES

Committee on Science: Ordered reported the following bills: H.R. 50, amended, National Oceanic and Atmospheric Administration Act; H.R. 2364, amended, to establish a Science and Technology Scholarship Program to award scholarships to recruit and prepare students for careers in the National Weather Service and in Administration marine research, atmospheric research and satellite programs; H.R. 426, amended, Remote Sensing Applications Act of 2005; and H.R. 1022, George E. Brown, Jr. Near-Earth Object Survey Act.

SOCIAL SECURITY—PROTECTING AND STRENGTHENING

Committee on Ways and Means: Subcommittee on Social Security held a hearing on Protecting and Strengthening Social Security. Testimony was heard from Joanne B. Barnhart, Commissioner, SSA; Barbara D. Bovbjerg, Director, Education, Workforce, and Income Security Issues, GAO; and public witnesses.

WTO's FUTURE

Committee on Ways and Means: Subcommittee on Trade held a hearing on the Future of the World Trade Organization. Testimony was heard from Peter F. Allgeier, Deputy U.S. Trade Representative; and public witnesses.

COMMITTEE MEETINGS FOR WEDNESDAY, MAY 18, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine Regulation NMS designed to strengthen our national market system for equity securities, focusing on recent market developments, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings to examine the nominations of David A. Sampson, of Texas, to be Deputy Secretary of Commerce, and John J. Sullivan, of Maryland, to be General Counsel of the Department of Commerce, 10 a.m., SR–253.

Subcommittee on Science and Space, to hold hearings to examine human spaceflight, 10:30 a.m., SR–253.

Committee on Energy and Natural Resources: business meeting to consider comprehensive energy legislation, 9:30 a.m., SD–366.

Committee on Environment and Public Works: to hold hearings to examine eco-terrorism specifically examining the Earth Liberation Front (''ELF'') and the Animal Liberation Front (''ALF''), 9:30 a.m., SD–406.

Committee on Health, Education, Labor, and Pensions: business meeting to consider S. 1021, to reauthorize the Workforce Investment Act of 1998, and the nomination of Raymond Simon, of Arkansas, to be Deputy Secretary of Education, 10 a.m., SD–430.

Committee on Homeland Security and Governmental Affairs: to hold hearings to examine FEMA's response to the 2004 Florida hurricanes, and its impact on taxpayers, 9:30 a.m., SD–562.

Full Committee, to hold hearings to examine the nomination of Linda M. Springer, of Pennsylvania, to be Director of the Office of Personnel Management, 2:30 p.m., SD–562.

Committee on Indian Affairs: to hold oversight hearings to examine issues relating to the taking of land into trust, 9:30 a.m., SH–216.

Select Committee on Intelligence: to receive a closed briefing on certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Appropriations, to consider the following: Revised Suballocation of Budget Allocations for Fiscal Year 2006; the Military Quality of Life, and Veterans Affairs, and Related Agencies appropriations for Fiscal Year 2006, and the Energy and Water Development, and Related Agencies appropriations for Fiscal Year 2006, 2 p.m., 2359 Rayburn.

Committee on Armed Services, to mark up H.R. 1815, National Defense Authorization Act for Fiscal Year 2006, 10 a.m., 2118 Rayburn.

Committee on Education and the Workforce, to mark up H.R. 2123, School Readiness Act of 2005, 10:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Commerce, Trade, and Consumer Protection, hearing on H.R. 1862, Drug Free Sports Act, 10 a.m., 2123 Rayburn.

Subcommittee on Health, hearing entitled ''Increasing Generic Drug Utilization: Saving Money for Patients,'' 2 p.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, hearing entitled ''Enhancing Data Security: The Regulators' Perspective,'' 10 a.m., 2128 Rayburn.

Committee on International Relations, to mark up the following: H. Con. Res. 44, Recognizing the historical significance of the Mexican holiday of Cinco de Mayo; H. Con. Res. 89, Honoring the life of Sister Dorothy Stang; H. Con. Res. 149, Recognizing the 57th anniversary of the independence of the State of Israel; H. Res. 191, Urging the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania; H. Res. 272, Recognizing the historic steps India and Pakistan have taken toward achieving bilateral peace; H.R. 273, Urging the withdrawal of all Syrian forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon; a resolution Expressing the sense of the House of Representatives regarding anti-Semitism at the United Nations; and a resolution Welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005, and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan; followed by a hearing on Kosovo: Current and Future Status, 10:30 a.m., 2172 Rayburn.

Subcommittee on Africa, Global Human Rights and International Operations, hearing on UN Peacekeeping Reform: Seeking Greater Accountability and Integrity, 2:30 p.m., 2200 Rayburn.

Subcommittee on the Middle East and Central Asia, to mark up the following: H. Con. Res. 149, Recognizing the 57th anniversary of the independence of the State of Israel; H. Res. 273, Urging the withdrawal of all Syrian

forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon; a resolution Expressing the sense of the House of Representatives regarding anti-Semitism at the United Nations; and a resolution Welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005, and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan, 9:30 a.m., 2172 Rayburn.

Committee on the Judiciary, to mark up the following bills: H.R. 742, Occupational Safety and Health Employer Access to Justice Act of 2005; H.R. 2293, To provide special immigrant status for aliens as translators with the United States Armed Forces; to continue mark up of H.R. 800, Protection of Lawful Commerce in Arms Act; and to markup the following bills: H.R. 554, Personal Responsibility in Food Consumption Act; H.R. 420, Lawsuit Abuse Reduction Act of 2005; and H.R. 744, Internet Spyware Prevention (I–SPY) Act of 2005, 10 a.m., 2141 Rayburn.

Committee on Resources, to mark up the following measures H.R. 38, Upper White Salmon Wild and Scenic Rivers Act; H.R. 125, To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California; H.R. 362, Ojito Wilderness Act; H.R. 394, To direct the Secretary of the Interior to conduct a boundary study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and the suitability and feasibility of its inclusion in the National Park System as apart of the Minuteman National Historical Park; H.R. 432, Betty Dick Residence Protection Act; H.R. 481, Sand Creek Massacre National Historic Site Establishment Act of 2005; H.R. 517, Secure Rural Schools and Community Self-Determination Reauthorization Act of 2005; H.R. 539, Caribbean National Forest Act of 2005; H.R. 599, Federal Lands Restoration, Enhancement, Public Education, and Information Resources Act of 2005; H.R. 774, Rocky Mountain National Park Boundary Adjustment Act of 2005; H.R. 853, To remove certain restrictions on the Mammoth Community Water District's ability to use certain property acquired by that District from the United States; H.R. 873, Northern Marianas Delegate Act; H.R. 975, Trail Responsibility and Accountability for the Improvement of Lands Act; H.R. 1084, To authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862; H.R. 1428, National Fish and Wildlife Foundation Reauthorization Act of 2005; H.R. 1492, To provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II; H.R. 1797, Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act; H.R. 1905, Small Tracts Reform Act; H.R. 2130, Marine Mammal Protection Act Amendments of 2005; and the National Geologic Mapping Reauthorization Act of 2005, 10 a.m., 1324 Longworth,

Committee on Science, Subcommittee on Research, hearing on The National Nanotechnology Initiative: Review and Outlook, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, to consider the following: GSA 3314 (b) Resolutions; H. Con. Res. 145, Expressing the sense of Congress in support of a national bike month and in appreciation of cyclists and others for promoting bicycle safety and the benefits of cycling; H. Res. 243, Recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week; H.R. 624, To amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants; H.R. 889, Coast Guard and Maritime Transportation Act of 2005; and H.R. 1359, To amend the Federal Water Pollution Control Act to extend the pilot program for alternative water source projects, 11 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Health, oversight hearing on the use and development of telemedicine technologies in the Department of Veterans Affairs health care system, 10 a.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Human Resources, hearing on Protections for Foster Children Enrolled in Clinical Trials, 2 p.m., B–318 Rayburn.

Next Meeting of the SENATE

9:30 a.m., Wednesday, May 18

Senate Chamber

Program for Wednesday: Senate will begin consideration of the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, May 18

House Chamber

Program for Wednesday: Consideration of H.R. 1817, Homeland Security Authorization Act for FY 2006 (subject to a rule).

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